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Summary of the Housing and Community Development Act of 1980

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The "Housing and Community Development Act of 1980" is omnibus legislation which makes a number of significant changes in the Nation's housing and community development and related authorities. The new law contains six titles as follows:

- Community and Neighborhood Development and Conservation (Title I)
- Housing Assistance and Related Programs (Title II)
- Program Amendments and Extensions (Title III)
- Planning Assistance (Title IV)
- Rural Housing (Title V)
- Condominium and Cooperative Conversion Protection and Abuse Relief (Title VI)

Community and Neighborhood Development and Conservation (Title I)

The new law reauthorizes the Community Development Block Grant (CDBG) and Urban Development Action Grant programs for three years, through fiscal year 1983; contains a two-year funding authorization for the section 312 rehabilitation loan program; and provides a fiscal year 1981 authorization for appropriations for the Neighborhood Self-Help Development Act of 1978. It also makes a number of amendments to the CDBG and action grant programs, and to the section 312 and urban homesteading authorities.

Use of Census Data and SMSA Revisions in Title I of the Housing and Community Development Act of 1974

The new law excludes, through fiscal year 1983, all data derived from the 1980 Decennial Census, except population and poverty, from use in connection with urban development action grants and the allocation of CDBG funds under Section 106 of the Housing and Community Development Act of 1974. It also prohibits any revision to the criteria for establishing a standard metropolitan statistical area (SMSA), or defining a central city of an SMSA, published after January 1, 1980, from being taken into account for purposes of title I, except that any area or city which will newly qualify as an SMSA or a central city of an SMSA by reason of any such revision will be so considered. (section 101(a))

Energy Related Findings and Objectives Under Title I of the Housing and Community Development Act of 1974

The new law establishes, as an additional finding of Title I of the Housing and Community Development Act of 1974, problems arising from increasing energy costs which have seriously undermined the quality and overall effectiveness of local community and housing development activities. It adds, as a requirement to achieve the congressional findings in title I concerning the development and maintenance of viable urban communities, the necessity for concerted action by Federal, State and local governments to address the economic and social hardships borne by communities as a consequence of scarce fuel supplies. Additionally, the new law lists as a specific objective of title I the conservation of the Nation's scarce energy resources, improvement of energy efficiency and the provision of alternative and renewable energy sources of supply. (section 104(a))

Community Development Block Grant Program

Funding authorization. The new law authorizes appropriations for the CDBG program of not to exceed $3.81 billion for fiscal year 1981, not to exceed $3.96 billion for fiscal year 1982 and not to exceed $4.11 billion for fiscal year 1983. (section 106(a))

SMSA discretionary set-aside. The new law provides for a set-aside of $275 million for fiscal year 1981 for small cities grants to units of general local government within SMSA's. (section 106(b))

Urban county program

Three-year qualification. The new law provides for the three-year qualification of urban counties with respect to urban county program years beginning with the program year in which grants are made to urban counties from fiscal year 1982 appropriations. Any unit of general local government which is included in the urban county is not otherwise eligible as a separate entity for a grant under Section 106 of the Housing and Community Development Act of 1974, unless the urban county's application is disapproved or withdrawn prior to or during the three-year period. During the three-year period, any unit of general local government which is not included in the urban county for the first year is not eligible for inclusion in the second or third years. These changes do not take effect until October 1, 1981. (section 101(b))

Notification of included units. The new law conforms the provisions under prior Section 102(d) of the Housing and Community Development Act of 1974 (requiring notification by urban counties of included units of government of their opportunity to be excluded from the county) to the three-year urban county qualification period, and provides for application of these provisions to counties initially seeking urban county status. The new law further requires that the notification to units of government must be provided so as to allow a reasonable period of time for response. (section 101(c))

Inclusion of metropolitan cities in urban county program. Where a metropolitan city is located in whole or in part within an urban county, the new law permits the Secretary, upon the joint request of a city and county, to approve the inclusion of the city as part of the county for purposes of planning a joint community development program meeting the requirements of Section 104 of the Housing and Community Development Act of 1974, and implementing the program. (section 101(d))

Inclusion of independent cities in determining CDBG amounts for urban counties. For purposes of determining urban county entitlement amounts, the new law provides for the inclusion of the demography of any independent city (as defined by the Census Bureau) which: (1) is not part of any county; (2) is not eligible for an entitlement grant; (3) is contiguous to the urban county; (4) has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to the independent city; and (5) is not included as part of any other unit of general local government for purposes of Section 106 of the Housing and Community Development Act of 1974. The new law further states that any independent city whose demography is so included is not eligible for a discretionary block grant from the Small Cities program. (section 103)

Application requirements

Displacement. The new law requires CDBG applicants, as part of the program formulation requirements of Section 104(a)(2) of the Housing and Community Development Act of 1974, to: (1) indicate non-title I resources expected to be made available to meet their activities, as well as their needs and objectives as required by prior law; and (2) take into account the effect of both title I and non-title I assisted activities on the involuntary displacement of low- and moderate-income persons. (section 105(a))

Energy needs and objectives. The new law also permits CDBG applicants, in their discretion, to include, as part of the program summary, formulation and description requirements set forth in Section 104(a)(1), (2) and (3) of the Housing and Community Development Act of 1974, comparable information with respect to the applicant's energy conservation and renewable energy resource needs and objectives. (section 104(b))

Applications for certain activities and projects. The new law requires that applicants seeking CDBG funding for eligible activities under Section 105(a)(14) of the Housing and Community Development Act of 1974 or projects under section 105(a)(15) of that Act must specifically describe the activities and projects in the application submitted pursuant to section 104. (section 104(e))

Performance reports for CDBG small cities. The new law gives the Secretary discretion to set the timing of grantee performance reports under Section 104(d) of the Housing and Community Development Act of 1974 less frequently than annually for CDBG Small City recipients which are not carrying out a comprehensive community development program, as determined by the Secretary. The new law also permits the Secretary to conduct reviews and audits of these recipients less frequently than annually. (section 109)

Eligible activities

Energy-related activities. The new law adds the following energy-related activities to those eligible under Section 105(a)(2) of the Housing and Community Development Act of 1974:

-- design features and improvements which promote energy efficiency with respect to the construction, reconstruction and installation of public works, facilities and improvements;

-- power generation and distribution facilities using renewable energy systems; and

-- solid waste recycling or conversion facilities. (section 104(c)(1))

Included under the law as an eligible rehabilitation activity under Section 105(a)(4) of the Housing and Community Development Act of 1974 is the rehabilitation of buildings and improvements which promote energy efficiency. (section 104(c)(2))

The new law includes energy conservation as an eligible public service activity under Section 105(a)(8) of the Housing and Community Development Act of 1974. (section 104(c)(3))

The law permits block grants under Section 105(a)(15) of the Housing and Community Development Act of 1974 to neighborhood-based nonprofit organizations, local development corporations or entities organized under Section 301(d) of the Small Business Investment Act of 1958 (MESBIC) to be used to carry out community energy conservation projects, in addition to the neighborhood revitalization and community economic development projects authorized under existing law. (section 104(c)(4))

Finally, the new law includes, as an additional eligible activity, those activities necessary to the development of a comprehensive, community-wide energy use strategy, which may include items such as:

-- a description of energy use and projected demand by sector, fuel type and geographic area;

-- an analysis of the options available to the community to conserve scarce fuels and encourage use of renewable energy resources;

-- an analysis of the manner in, and extent to, which the community's neighborhood revitalization, housing and economic development strategies will support its energy conservation strategy;

-- an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, land use planning and zoning, and traffic control, parking and public transportation functions;

-- a statement of the actions the community will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures and any other proposed energy conservation activities;

-- appropriate provisions for energy emergencies;

-- identification of the local governmental unit responsible for administering the energy use strategy;

-- provision of a schedule for implementation of each element in the strategy; and

-- a projection of the savings in scarce fossil fuel consumption and the development and use of renewable energy resources that will result from implementation of the energy use strategy. (section 104(c)(5))

River recreation facilities. The new law clarifies that eligible activities under Section 105(a)(2) of the Housing and Community Development Act of 1974 include the acquisition, construction, reconstruction, or installation of parks, playgrounds and recreational facilities established as a result of reclamation and other construction activities carried out in connection with a river and its adjacent land, where assistance for these purposes under other Federal laws or programs is determined to be unavailable. (section 104(c)(1))

Conversion of surplus schools. The new law includes as an eligible rehabilitation activity under Section 105(a)(4) of the Housing and Community Development Act of 1974 the renovation of closed school buildings for purposes of converting the buildings to eligible block grant uses. (section 104(d))

Reallocation of funds. With respect to the reallocation of CDBG funds within SMSA's, the new law provides that preference be given to units of general local government in the same SMSA to which the funds were originally allocated. (section 112)

Pro-rata reduction of grants. The new law makes permanent the provision that, if the total amount available under Section 106 of the Housing and Community Development Act of 1974 is insufficient to meet all entitlement funding requirements and funds are not otherwise appropriated to meet the shortfall, the deficiency is to be made up through pro-rata reduction in all section 106 grants. (section 102)

Secretary's Discretionary Fund. The new law replaces the percentage of appropriations method of determining amounts for the Secretary's Discretionary Fund, under Section 107 of the Housing and Community Development Act of 1974, with the following specific dollar amounts: not to exceed $104 million for fiscal year 1981, not to exceed $104 million for fiscal year 1982 and not to exceed $107 million for fiscal year 1983. (section 107)

Loan guarantees. The new law provides that the Secretary's authority to guarantee and make commitments to guarantee notes and other obligations under Section 108 of the Housing and Community Development Act of 1974 is limited to the extent and the amounts provided in appropriation Acts. It further prohibits the Secretary from entering into guarantee commitments during fiscal year 1981 with an aggregate principal amount in excess of $300 million. (section 108)

Formula study. The new law requires the Secretary to report to the Congress, not later than January 1, 1983, with respect to the adequacy, effectiveness and equity of the formula used for allocation of funds under Title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the manner in which the formula is or could be affected by the data derived from the 1980 Decennial Census. (section 113)

Technical amendments. The new law makes a number of technical amendments to title I to remove or amend obsolete or superseded provisions. (section 111)

Urban Development Action Grants

Funding authorization. The new law aggregates the funding authorizations for the action grant program for years prior to fiscal year 1981 at not to exceed $1.475 billion, and authorizes the appropriation of not to exceed $675 million for each of fiscal years 1981, 1982 and 1983. (section 106(c))

Eligible recipients

Guam and Virgin Islands. The new law provides that, for purposes of the action grant program, the definition of "city" includes Guam and the Virgin Islands. The new law further states that, in connection with action grant applications, Guam and the Virgin Islands are subject to the application requirements contained in Section 107 of the Housing and Community Development Act of 1974, rather than those contained in section 104 of the Act. (section 117(a)

Indian tribes. The new law makes Indian tribes eligible for action grant funding. To be eligible, Indian tribes must be located on a reservation or in an Alaskan Native Village and be considered as eligible recipients for General Revenue Sharing. The new law further provides that Indian tribes are not subject to the application requirements in Section 104 of the Housing and Community Development Act of 1974, but are required to meet the application requirements under section 107 of the Act. The existing exemption of Indian tribes from certain civil rights requirements in connection with grants from the Secretary's Discretionary Fund is clarified under the law to cover action grants as well. (section 117(a) and (b))

Historic preservation

Application requirements. The new law requires action grant applications to include (1) an identification of any properties which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made; (2) an identification of any other properties which will be affected by the project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on the Register, together with documentation relating to such inclusion; and (3) a description of the effect, as determined by the applicant, of the project on the properties identified.

Notification of Secretary of the Interior and State historic preservation officer. The new law prohibits the Secretary, in the case of an action grant application which identifies a property as above, from commiting funds for an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the notice and comment procedures described below.

Promulgation of regulations

Action grants and Historic Preservation Acts. With respect to action grant applications, the new law requires the Secretary of the Interior, after consulting with HUD, to prescribe and implement regulations concerning action grant-assisted projects and their relationship to the National Historic Preservation Act and the Archaeological and Historic Preservation Act.

Notification and comment procedures. In prescribing and implementing the regulations described above, the Secretary of the Interior shall provide at least that: (1) the appropriate State historic preservation officer (as determined in accordance with regulations prescribed by the Secretary of the Interior) shall, not later than 45 days after receiving information from the applicant relating to the identification of properties which will be affected by the project for which the application is made and which may meet the criteria established by the Secretary of the Interior for inclusion on the National Register (together with documentation relating to such inclusion), submit his or her comments, together with such other information considered necessary by the officer, to the applicant concerning such properties; and (2) the Secretary of the Interior shall, not later than 45 days after receiving from the applicant the information submitted to the State historic preservation officer and the officer's comments thereon, make a determination as to whether any of the properties affected by the project for which the application is made is eligible for inclusion on the National Register.

Advisory Council on Historic Preservation. The new law requires that the Advisory Council on Historic Preservation prescribe regulations providing for expeditious action by the Council in making its comments under the National Historic Preservation Act in the case of properties which are included, or are eligible for inclusion, on the National Register and which are affected by a project for which an action grant application is made. (section 110)

Section 312 Rehabilitation Loan Program

Funding Authorization. Appropriations of not to exceed $144 million and $129 million for fiscal years 1981 and 1982, respectively, are authorized for the rehabilitation loan program under Section 312 of the Housing Act of 1964. (section 114(b)(1))

Extension of program. The new law extends the section 312 rehabilitation loan program for two years, through September 30, 1982. (section 114(d))

Appropriation limit. The new law states that not more than $210 million may be approved in appropriation Acts for section 312 loans for fiscal year 1981. (section 114(b)(2))

Limitation on loans for multifamily property. The new law states that not more than one-third of the amount available for section 312 loans for any fiscal year beginning on or after October 1, 1980 may be used for loans for the rehabilitation of multifamily properties. (section 114(b)(3))

Increase in maximum loan amounts. The new law increases the section 312 maximum loan limit per dwelling unit from $27,000 to $33,500. (section 114(a)(1))

Congregate housing. The new law amends the section 312 maximum loan amounts for residential property to provide that, in the case of residential property in which some or all of the dwelling units do not contain kitchen facilities and to which there is connected a central dining facility where meals can be served to the occupants, the maximum loan limit is $25,000 per dwelling unit. (section 114(a)(6))

Single-room-occupancy housing. The new law amends the section 312 maximum loan amounts for residential property to provide that, in the case of residential property in which some or all of the dwelling units do not contain bathroom or kitchen facilities, the maximum loan limit is $15,000 per dwelling unit. (section 114(a)(6))

Use of section 312 for refinancing. The new law prohibits loans under section 312 from being used to refinance existing indebtedness, unless the Secretary determines that the refinancing is necessary and appropriate. The new law also prohibits the Secretary from delegating to any organization outside HUD the authority to determine whether to permit the refinancing of existing indebtedness. (section 114(a)(2) and (3) and (c))

Neighborhood Self-Help Development Act

The new law authorizes the appropriation of not to exceed $10 million for fiscal year 1981 for the Neighborhood Self-Help Development Act of 1978. (section 115)

Urban Homesteading

The new law amends Section 810(h) of the Housing and Community Development Act of 1974 to make clear that funds can be appropriated under the urban homesteading program for the reimbursement by HUD of the Veterans Administration and the Department of Agriculture for properties transferred by those entities for use in connection with approved homesteading programs. (section 116)

Continuation of Study on Involuntary Displacement

The new law requires the Secretary to continue the study on involuntary displacement conducted under Section 902 of the Housing and Community Development Amendments of 1978 and to transmit, not later than March 30, 1981, a report to the Congress which shall contain (1) data collected since the initial report submitted under section 902 and (2) further recommendations on minimizing involuntary displacement and alleviating problems caused by such displacement. (section 105(b))

Housing Assistance and Related Programs (Title II)

The new law provides additional funding authorizations for the public housing and section 8 programs, and for the program of operating assistance for troubled multifamily projects. It makes a number of other changes in these programs, as well as changes in the section 235, rent supplement and congregate services authorities, and the requirements pertaining to the management and preservation of HUD-owned housing projects. The law also establishes an economic stimulus program under section 235 and a public housing modernization and comprehensive improvement assistance program.

Public Housing and Section 8 Amendments

Funding for the public housing and section 8 programs. The new law authorizes additional annual contributions contract (ACC) authority of $1,494,400,000 to be made available on October 1, 1980 for the public housing and section 8 housing assistance payments programs. This additional authority is effective only in amounts approved in appropriation Acts. In addition, the aggregate amount which may be obligated with respect

to this additional authority may not exceed $31.2 billion over the duration of the contracts. The law also contains a rewrite of section 5(c) to simplify and delete obsolete or superseded provisions, and aggregates ACC authority prior to fiscal year 1981. (section 201(a))

The law also authorizes the appropriation of not to exceed $826 million for fiscal year 1981 for public housing operating subsidies. (section 201(b))

Funding limitations and set-asides. Of the additional ACC authority approved in appropriation Acts and made available on October 1, 1980, the Secretary is required to enter into contracts aggregating at least $100 million for assistance to projects under the new comprehensive improvement assistance program, described below. With respect to the remaining ACC authority, the Secretary may not enter into contracts aggregating more than 37.5 percent of the balance for section 8 existing units, including assistance under section 8(j) for manufactured homes, or more than 62.5 percent of the balance for new and substantially rehabilitated units under the U.S. Housing Act of 1937. Of this latter amount, not more than $265.8 million is to be available for conventional public housing. (section 201(a))

Public housing comprehensive improvement assistance program

Purpose. The law establishes a new comprehensive improvement assistance program to provide assistance to improve the physical condition of existing public housing projects and to upgrade their management and operation to assure their continued availability for low-income families. (section 202(a), section 14(a) of the U.S. Housing Act of 1937)

Basic authority. The Secretary is authorized to provide financial assistance, in amounts authorized under section 5(c) and approved in appropriation Acts, to public housing agencies (PHA's) to improve the physical condition of existing public housing projects and to upgrade project management and operation to the extent necesssary to maintain the improvements. The law also authorizes additional assistance in certain emergency circumstances as described below. (section 202(a), section 14(b) of the U.S. Housing Act of 1937)

Eligibility for assistance. To be eligible for assistance under the basic authority, projects must:

-- be owned by PHA's;

-- be operated as rental projects and receiving debt service or operating assistance under either Section 5(c) or Section 9 of the U.S. Housing Act of 1937;

-- not be assisted under section 8 of the Act; and

-- meet other requirements as prescribed by the Secretary. (section 202(a), section 14(c) of the U.S. Housing Act of 1937)

Applications for assistance. Except in the case of a PHA receiving funds to develop a plan, as described below, the new law prohibits assistance under the basic authority, unless the Secretary approves an application by a PHA which has been developed in consultation with appropriate local officials and the tenants of the projects to be assisted. The application must contain at least:

(1) Assessment of physical condition. A comprehensive assessment of the physical condition and the physical improvements, for each project for which assistance is requested, necessary to meet the Secretary's standards under the program;

(2) Identification of replacement of systems and structures. Identification, for each such project, of equipment systems or structural elements which would normally be replaced (assuming routine and timely maintenance is performed) over a 30-year period or the remaining term of the ACC covering the project, whichever is greater;

(3) Assessment of management and operation. A comprehensive assessment of improvements needed to upgrade the management and operation of each such project so that decent, safe and sanitary living conditions will be provided. The assessment must include at least an indentification of needs related to –

(A) the PHA management and the financial and accounting control systems which are related to each eligible project;

(B) the adequacy and qualifications of PHA personnel employed in the management and operation of such projects, for each category of employment; and

(C) the adequacy and efficiency of tenant programs and services in such projects, the security of each such project and its tenants, policies and procedures of the PHA for the selection and eviction of tenants in such projects and other PHA policies and procedures relating to such projects, as specified by the Secretary; and

(4) Implementation plan. A plan for making the improvements and replacements, and for meeting the needs described in items (1), (2) and (3), above, including at least:

(A) A schedule of those actions which are to be completed, over a period of not greater than five years from the date of the approval of the application, within each 12-month period covered by the plan, and which are necessary to make the physical improvements to meet HUD's standards for each project for which assistance is requested, and to upgrade the management and operation of such projects as described in item (3), above;

(B) the estimated cost of each of the scheduled actions;

(C) an estimate of the total costs of the identified replacement items for each such project over a 30-year period or the remaining term of the ACC, whichever is greater, including estimates of the amounts necessary to fund accrued costs up to the time of application, and costs which will accrue during each 12-month period subsequent to the application;

(D) an operating budget for each such project for each 12-month period covered by the plan; and

(E) an estimate of all the financial resources available for each such project and to the PHA (to the extent the resources of the agency relate to such project), and the amounts of assistance which are being requested under the basic authority for each 12-month period covered by the plan. (section 202(a), section 14(d) of the U.S. Housing Act of 1937)

Limitation on amount of assistance. Assistance under the basic authority may not exceed for any PHA in any year the sum of the following:

-- **Cost of improvements.** The amount the Secretary determines necessary for the actions specified in the schedule for that year;

-- **Replacement costs.** The amount the Secretary determines necessary to fund identified replacement costs accrued for the period ending at the beginning of the year and for which payment was not previously made under the basic authority;

-- **Reimbursement of cost of developing implementation plan.** The amount the Secretary determines is necessary to reimburse the PHA for the development of the plan (less any amounts provided in that year for plan development).

-- **Assistance for developing plan by financially distressed PHA's.** For a PHA which meets the Secretary's criteria for financial distress and which has submitted the required assessments of its physical, management and replacement item needs described above, the amount which the Secretary determines is necessary to develop the required implementation plan.

Not more than five percent of the total assistance provided under the basic authority to all PHA's in any year can be made available for developing plans or reimbursing their development costs. (section 202(a), section 14(e) of the U.S. Housing Act of 1937)

Demolition of projects. Approval by the Secretary of an application under the basic or emergency authority, proposing the demolition of all or a portion of a project is prohibited unless:

-- the PHA will undertake timely replacement of the units in the project;

-- the total cost of providing such replacement housing is less than the total rehabilitation cost of the project, except that the Secretary may waive this requirement when it is determined that demolition is necessary to assure the continued availability of projects for low-income families; and

-- the low-income families to be displaced by the proposed demolition will be provided with decent, safe, sanitary and affordable housing. (section 202(a), section 14(f) of the U.S. Housing Act of 1937)

Condition on subsequent assistance. Assistance under the basic authority is precluded after the first year, unless the Secretary determines that the PHA has made substantial efforts to meet the approved plan's objectives in the previous year. (section 202(a), section 14(g) of the U.S. Housing Act of 1937)

Preference in making assistance available. In making assistance available under the basic authority, the new law directs the Secretary to give preference to PHA's which:

-- request assistance for projects with conditions which threaten the tenants' health or safety or which have a significant number of vacant, substandard units; and

-- have demonstrated a capability of carrying out the activities proposed in the approved plan. (section 202(a), section 14(h) of the U.S. Housing Act of 1937)

Funding of emergency or special purpose needs. The Secretary is authorized to provide additional assistance, without regard to project eligibility, application, amount of assistance, assistance after the first year and preference requirements described above, to any PHA in amounts determined necessary to meet emergency or special purpose needs. Funding under this authority is limited to amounts authorized under section 5(c) and approved in appropriation Acts, and may only be use to:

-- correct conditions threatening tenants' health or safety in any otherwise eligible project for which an application for assistance under the basic authority has not been approved;

-- correct conditions which threaten tenants' health or safety in any project for which assistance under the basic authority has been approved, but which were unanticipated at the time of development of the application;

-- correct conditions which threaten the health or safety of occupants of any low-income housing project not otherwise eligible and not assisted under section 8; or

-- meet physical improvement needs not otherwise eligible for assistance and pertaining to any low-income housing project other than a project assisted under section 8. (section 202(a), section 14(i) of the U.S. Housing Act of 1937)

Promulgation of rules. The Secretary is directed to issue rules and regulations, which must include standards providing for decent, safe and sanitary conditions and energy conserving improvements, consistent, to the extent practicable, with HUD's Minimum Property Standards for Multifamily Housing as they would be reasonably applicable to existing housing. The Secretary may establish higher standards on a project-by-project basis where he or she decides they would be appropriate to further the program's purposes. (section 202(a), section 14(j) of the U.S. Housing Act of 1937)

Conforming changes

Weatherization of low-income housing projects. The law deletes the requirement in Section 13 of the U.S. Housing Act of 1937 that, in using contract authority in modernizing low-income housing projects, the Secretary shall take into consideration projects which will be modernized to a substantial extent with weatherization material. (section 202(b))

Agreements with PHA's for project modification or closeout. The new law modifies the requirement under Section 6(f) of the U.S. Housing Act of 1937 that annual contributions contracts with PHA's provide for

modification or closeout when a project becomes obsolete so as to specify that the modification must be pursuant to the new program. (section 202(c))

Exemption from Section 213 allocation requirements. Amounts approved in appropriation Acts for carrying out this new program are exempt from the requirements for consistency with allocation of housing assistance funds requirements under Section 213(d) of the Housing and Community Development Act of 1974. This replaces existing provisions exempting public housing modernization funds from those requirements. (section 202(d))

Public housing for Indian and Alaskan Natives

Public housing operating subsidies. In the case of projects developed under the Indian and Alaskan Native housing program, the new law permits the Secretary to provide operating subsidies (in addition to any other operating subsidy amounts approved by the Secretary) to cover the administrative costs to Indian housing authorities during the development of projects approved for annual contributions under Section 5 of the U.S. Housing Act of 1937 until project occupancy. (section 201(d))

Prototype costs. The new law requires prototype cost determinations under Section 6(b) of the U.S. Housing Act of 1937 for projects to be located on Indian reservations or in Alaskan Native villages to be determined and made available within a reasonable time before each construction season, as appropriate for the project area. (section 201(c)(1))

It also requires prototype cost determinations for projects in remote areas, such as may be found in connection with projects under the Indian and Alaskan Native housing program, to take into account the extensive transportation costs of necessary labor, materials and equipment to the project site, and any additional conditions which the Secretary determines should be considered under the other prototype cost determination factors contained in existing law. (section 201(c)(2))

Solar energy systems in public housing projects. The new law directs the Secretary to require the installation of passive or active solar energy systems in contracts for newly constructed or substantially rehabilitated public housing (non-section 8) projects, where the Secretary determines that such installation would be cost-effective over the estimated life of the system. (section 210)

Exemption of public housing projects for the elderly from income mix and related tenant selection criteria. Section 6(c)(4)(A) of the U.S. Housing Act of 1937 requires PHA's to establish tenant selection criteria which (1) give preference to families who occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under the Act, (2) are designed generally to assure that projects will include families with a broad range of incomes and (3) are designed to assure that projects will avoid concentrations of low-income and deprived families with serious social problems. The new law exempts from these requirements projects or portions of projects specifically designated for elderly families, where the Secretary determines that application of these criteria would result in excessive delays in meeting the housing needs of elderly families. (section 201(e))

Maximum monthly rents for moderately rehabilitated and new or substantially rehabilitated section 8 units. Under prior Section 8(c)(1) of the U.S. Housing Act of 1937, the maximum monthly rent may exceed the applicable fair market rental (FMR) by more than 10 but not more than 20 percent, where the Secretary determines that special circumstances warrant the higher maximum rent or that the higher rent is necessary to the implementation of a local housing assistance plan as defined in Section 213(a)(5) of the Housing and Community Development Act of 1974.

The new law permits the Secretary to approve maximum monthly rents for moderately rehabilitated units which exceed the FMR by not more than 20 percent if the units are located in an area where the Secretary finds cost levels so require. Additionally, the Secretary may approve maximum monthly rents which exceed the FMR by up to 30 percent, where the Secretary determines that special circumstances warrant the higher rent or where necessary to the implementation of a local housing assistance plan. (section 203(b))

In the case of new or substantially rehabilitated units, the law prohibits maximum monthly rents from exceeding 10 percent of the FMR's for more than 20 percent of the total amount of ACC authority for these units allocated to an area and obligated with respect to any fiscal year beginning with fiscal year 1981. (section 203(a))

Section 8 assistance for certain residents of section 236 projects. The law authorizes section 8 assistance for residents of section 236 projects. Not more than $20 million of additional ACC authority under Section 5(c) of the U.S. Housing Act of 1937 for fiscal year 1981 may be used for assisting elderly or handicapped families which, at the time of applying for section 8 assistance, are residents of section 236 projects and are spending more than 50 percent of their income for rent. (section 211)

Section 235 Amendments

Amendments to standard program

General increase in section 235 mortgage limits. The new law increases by up to 25 percent the mortgage limits under Section 235 of the National Housing Act. The new limits are now up to $40,000, ($47,500 for high-cost areas) for single-family homes, $47,500 ($55,000 for high-cost areas) for homes for families with five or more persons, and $55,000 ($61,250 for high-cost areas) for two-family dwellings. (section 206(a)(1)-(3))

Increase in mortgage limits for the handicapped. The new law permits the Secretary to insure a mortgage under section 235 which involves a principal obligation which exceeds, by not more than 10 percent, the maximum limits specified under section 235, if the mortgage relates to a dwelling unit to be occupied by a physically handicapped person and the Secretary determines that this action is necessary to reflect the cost of making the dwelling accessible to and usable by that person. (section 206(a)(4))

Recapture of subsidy. The new law amends section 235 to provide that, upon disposition of the property, or where the homeowner ceases making payments on the mortgage for a period of at least 90 continuous days or rents the property (or for 2-4 family properties, the owner's unit) for more than a year, the Secretary must provide for the recapture of an amount equal to the lesser of:

(1) the amount of assistance actually received under section 235, or

(2) an amount equal to at least 50 percent of the net appreciation of the property, as determined by the Secretary.

The term "net appreciation of the property" means any increase in the value of the property over the original purchase price, less the reasonable costs of sale and improvements made to the property and any increase in the mortgage amount at the time of sale over the original mortgage balance because the mortgage involved graduated payments in accordance with Section 245 of the National Housing Act.

Any section 235 assistance provided constitutes a debt secured by the property to the extent that the Secretary provides for recapture. These recapture provisions do not apply to any property with respect to which there is an assumption of the mortgage under section 235 or which is subject to a mortgage, loan or other advance of credit insured in accordance with the provisions of the new section 235(q) economic stimulus program, described below.

This provision does not affect any assistance contract made under the standard section 235 program for which a commitment was issued within six months after its enactment. (section 206(b))

Assisted dwellings in a single subdivision. The law requires the Secretary to conduct a study of the effects which the application of section 235(n)'s prohibition (no more than 40 percent assisted units in a single subdivision) may have on the standard section 235 program. If the new section 235(q) stimulus program is implemented, the Secretary shall include in the study an analysis of the effects of the prohibition on that program as well. The Secretary shall transmit to the Congress, not later than January 1, 1982, a report containing the findings and conclusions of this study. (section 206(c))

New section 235 stimulus program.

Authority to make assistance. If the Secretary determines that there is a substantial need for emergency stimulation of the housing market, the new law authorizes the Secretary to make, and enter into contracts to make, periodic assistance payments on behalf of homeowners, including owners of manufactured homes, to

mortgagees or other lenders holding mortgages, loans or advances of credit which meet the program's requirements. The Secretary may establish such criteria, terms and conditions relating to homeowners and mortgages, loans or advances of credit assisted under this program as the Secretary deems appropriate, consistent with the program's provisions. The Secretary is authorized to insure a mortgage which meets the requirements of and is to be assisted under this authority.

Not more than 75 percent of the authority available under the standard section 235 program may be used to make assistance payments under the new authority, and no mortgage may be insured or assistance contract entered into under the program after June 1, 1981, or at such earlier date as the Secretary may deem appropriate, upon a determination that the conditions which gave rise to the exercise of the authority are no longer present, except under a commitment to insure or contract entered into before that date. (section 207, section 235(q)(1) of the National Housing Act)

Eligible homeowners. The new law provides that payments may be made only on behalf of a homeowner who satisfies eligibility requirements prescribed by the Secretary and who --

(1) is a mortgagor under a mortgage which meets the requirements of and is insured under the new program, or is the original owner of a new manufactured home consisting of two or more modules and a lot on which the home is situated, where insurance for the home and lot has been provided under Title I of the National Housing Act; and

(2) has a family income, at the time of initial occupancy, not exceeding 130 percent of the area median income (with adjustments for smaller and larger families, unusually high or low median income or other factors), as determined by the Secretary. (section 207, section 235(q)(2) of the National Housing Act)

Assistance payments provisions. The new law provides that the Secretary may continue making assistance payments, where a mortgage insured under the new program has been assigned to the Secretary. Assistance payments may be made only as long as the homeowner occupies the property involved. (section 207, section 235(q)(3) of the National Housing Act)

Amount of assistance payments

In general. The new law provides that assistance payments on behalf of a mortgagor shall not at any time exceed the lesser of:

(1) the balance of the monthly payment for principal, interest, taxes, insurance and any mortgage insurance premium due under the mortgage remaining unpaid after applying a minimum of 25 percent of the mortgagor's income, except that the Secretary may lower this percentage to as low as 20 percent to the extent he or she deems it necessary; or

(2) the difference between the amount of the monthly payment for principal, interest and any mortgage insurance premium which would be required, if the mortgage were a level payment mortgage bearing interest at a rate equal to the maximum interest rate set by HUD for mortgages insured under section 203(b) and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were a level payment mortgage bearing interest at the rate of at least 9.5 percent. (section 201, section 235(q)(4) of the National Housing Act)

Manufactured home loans. The new law provides that the payments on behalf of an owner of a manufactured home shall not at any time exceed the lesser of:

(1) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance and insurance premium chargeable under Title I of the National Housing Act due under the loan or advance of credit remaining unpaid after applying a minimum 25 percent of such homeowner's income, except that the Secretary may lower this percentage to as low as 20 percent if he or she deems it necessary; or

(2) the difference between the amount of the monthly payment for principal, interest and insurance premium chargeable under title I which such homeowner is obligated to pay under the loan or advance of credit, and the monthly payment of principal and interest which the owner would be obligated to pay, if the loan or advance of credit were to bear interest at a rate determined by the Secretary, which shall not be less than 12 percent. (section 207, section 235(q)(5) of the National Housing Act)

Reimbursement of mortgagee expenses. The Secretary may include in the payment to the mortgagee or other lender an amount, in addition to the amount of assistance computed above, as the Secretary deems appropriate to reimburse the mortgagee or other lender for its reasonable and necessary expenses in handling the mortgage, loan or advance of credit. (section 207, section 235(q)(6) of the National Housing Act)

Recertification of income. The new law requires that procedures be adopted by the Secretary for recertification of homeowners' incomes at intervals of two years or less, for the purpose of adjusting the amount of assistance payments. (section 207, section 235(q)(15) of the National Housing Act)

Regulation of sales price. The Secretary is required to prescribe regulations necessary to assure that the sales price or other consideration paid in connection with the purchase of a property with respect to which assistance payments are to be made is not greater than the appraised value, as determined by the Secretary. (section 207, section 235(q)(7) of the National Housing Act)

Limit on number of manufactured homes assisted. The law provides that the assistance payments made under the manufactured home provisions of the new program shall not be made with respect to more than 20 percent of the total number of the units for which assistance under the program is approved. (section 207, section 235(q)(8) of the National Housing Act)

Authority to insure mortgages. The Secretary is authorized to insure, upon application by a mortgagee, a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments under the new program. It also permits commitments for insurance of these mortgages to be issued prior to the date of their execution or disbursement thereon, upon such terms as the Secretary may prescribe. (section 207, section 235(q)(9) of the National Housing Act)

Mortgage eligibility. The law requires that, to be eligible for insurance under the new program, a mortgage shall:

(1) be a first lien on real estate held in fee simple, or on a leasehold under a lease meeting conditions established by the Secretary;

(2) have been made to, and held by, a lender approved by the Secretary as responsible;

(3) involve a one- to four-family dwelling approved by the Secretary before the beginning of construction, or if not so approved, have been completed within one year before the filing of the application for insurance and have never been sold other than to the mortgagor;

(4) involve a principal residence the sales price of which does not exceed 82 percent of the applicable mortgage limits for the area under Section 203(b) of the National Housing Act, determined without regard to limit increases for the installation of a solar energy system;

(5) have maturity and amortization provisions satisfactory to the Secretary;

(6) bear interest at a rate not exceeding the applicable maximum rate under Section 203(b) of the National Housing Act;

(7) be executed by a mortgagor who has paid, in cash or its equivalent, on account of the property, at least an amount equal to three percent of the Secretary's estimate of the cost of acquisition; and

(8) contain such other terms and conditions as the Secretary may prescribe. (section 207, section 235(q)(10) of the National Housing Act)

Conservation of resources. The Secretary, to the extent practicable, shall insure mortgages under the new program which are secured by properties which contribute to the conservation of land and energy resources. (section 207, section 235(q)(11) of the National Housing Act)

Graduated payment mortgage. In carrying out the new program, the Secretary shall provide for graduated payments under Section 245 of the National Housing Act where the Secretary deems it appropriate. (section 237, section 235(q)(12) of the National Housing Act)

Allocation of assistance. The new law requires the Secretary to develop and use a system to allocate the assistance in a manner which assures its reasonable distribution among the various regions of the country and which takes into consideration such factors as population, relative decline in building permits, the need for increased housing production and other factors deemed appropriate. Assistance under the program is not subject to Section 213 of the Housing and Community Development Act of 1974 (local housing assistance plans and allocation of housing funds). (section 207, section 235(q)(13) of the National Housing Act)

Recapture of subsidy. The new law requires the Secretary to provide for the recapture, upon disposition of the property, or when the homeowner ceases to make payments on the insured mortgage for a period of at least 90 continuous days or rents the property (or for 2-4 family properties, the owner's unit) for more than a year, of an amount equal to the lesser of:

(1) the amount of assistance actually received under the program (other than amounts for lender handling charges, as above); or

(2) an amount at least equal to 50 percent of the net appreciation of the property, as determined by the Secretary.

"Net appreciation" means any increase in the value of the property over the purchase price, less reasonable costs of sale and improvements made, and any increase in the loan balance at the time of sale over the original mortgage balance due to the loan's being a graduated payment mortgage insured under Section 245 of the National Housing Act. In providing for recapture, the Secretary must include incentives for the homeowner to maintain the property in a marketable condition. Notwithstanding other law, any assistance under the program shall constitute a debt secured by the property to the extent that the Secretary may provide for recapture. (section 207, section 235(q)(14) of the National Housing Act)

Operating Assistance for Troubled Multifamily Housing Projects

Funding authorization. An appropriation of not to exceed $31 million is authorized in fiscal year 1981 for providing assistance under the Troubled Projects program authorized under Section 201 of the Housing and Community Development Amendments of 1978. (section 204)(a))

Use of section 236 Housing Assistance Fund for Troubled Projects program. In addition to the $31 million authorization for fiscal year 1981, the period during which use of amounts in the section 236 Rental Housing Assistance Fund for the Troubled Projects program may be approved in an appropriation Act is extended to September 30, 1981. The new law also deletes references to specific dates to be used in determining which amounts in the section 236 Fund must be used for the Troubled Projects program. Prior law required amounts credited to the Fund on or after October 1, 1978, or credited prior to that date but remaining unobligated on October 31, 1978, to be used for the program. Under the amendment, all amounts in the Fund must be used for the program. (section 204(b))

Rent Supplement Program

The new law directs the Secretary, not later than four years after the enactment of the Housing and Community Development Act of 1980, to offer to amend existing rent supplement contracts to make them contain terms and conditions necessary to implement the Housing and Community Development Admendments of 1979 (applying section 8 provisions regarding tenant eligibility, income and payment determinations to the rent supplement program). Under prior law, these amendments were discretionary with the Secretary. (section 205)

Management and Preservation of HUD-Owned Multifamily Projects

Goals. Section 203(a) of the Housing and Community Development Amendments of 1978 states that the purpose of HUD's property management and disposition program is to manage and dispose of projects in a manner which will protect the financial interests of the Federal Government and be less costly to the Federal Government than other reasonable alternatives by which the Secretary can further a number of goals. One of these goals was the

preservation of housing units so that they could remain available to and affordable by low- and moderate-income families. The new law restates this goal to be the preservation of the housing units, so that at least those units which are occupied by low- and moderate-income persons or are vacant at the time of acquisition are available to and affordable by these persons.

The law also adds, as an additional goal, the maintenance of the project for the purpose of providing rental or cooperative housing. (section 213(a))

Preservation as rental housing. The new law provides that, unless the Secretary determines on a case-by-case basis that it is clearly inappropriate, he or she shall seek to maintain the project for the purpose of providing rental or cooperative housing for the longest feasible period. (section 213(c))

Terms and conditions of disposition. Section 203(b)(1) of the Housing and Community Development Amendments of 1978 authorizes the Secretary to dispose of a HUD-owned multifamily project on such terms as the Secretary deems appropriate, considering, among other things, the low- and moderate-income character of the project. The new law requires the Secretary, in disposing of these projects, also to take into consideration the number of units in the project occupied by low- and moderate-income persons. (section 213(b))

Coverage. Under prior law, the provisions of section 203 only applied to projects which are (or, before HUD acquisition, were) assisted under section 236, section 221(d)(3) (BMIR) or the rent supplement program, and are insured under the National Housing Act. In addition to these projects, the new law extends section 203's coverage to any multifamily rental housing project which is (or, before HUD acquisition, was) insured (whether assisted or not) under the National Housing Act, or was subject to a loan under Section 202 of the Housing Act of 1959 (housing for the elderly and handicapped) or Section 312 of the Housing Act of 1964 (rehabilitation loans) or which is acquired by the Secretary pursuant to any other provision of law. (section 213(e))

The new law also provides that above-moderate-income tenants in covered projects are not to be eligible for the displacement benefits set forth in section 203(d)(2)(B) and (C) – that the Secretary assure displaced tenants the right to occupy a unit in another HUD-owned multifamily property and obtain assistance under the U.S. Housing Act of 1937. (section 213(d))

Miscellaneous Provisions

Congregate housing. The new law amends the Congregate Housing Services Act of 1978 to exclude applications for assistance to provide congregate services exclusively to nonelderly handicapped residents from the requirements that they be developed in consultation with, and after review and comment by, agencies serving the elderly. It also amends the Act so that the consultation, review and comment requirements under these provisions refer to the "appropriate agency" rather than the "appropriate *local* agency." (section 208)

Housing project site location. The new law prohibits HUD from excluding from consideration for financial assistance under the U.S. Housing Act of 1937, Sections 235 and 236 of the National Housing Act, the rent supplement program or Section 202 of the Housing Act of 1959, proposals for housing projects solely because the site proposed is located in an impacted area. (section 216)

Security program for public housing. The new law contains a provision, the "Public Housing Anti-Crime Amendments of 1980," which is designed to continue and strengthen the efforts of the Urban Initiatives Anti-Crime Program, authorized by the Public Housing Security Demonstration Act of 1978 (PHSD), so that more progress can be made in providing secure, decent, safe and sanitary dwelling units for low-income and elderly tenants in public housing projects.

The provision states congressional findings that:

– public housing and surrounding neighborhoods continue to suffer substantially from rising crime and the fear of crime;

– funding to provide more security for public housing can be used to leverage funding from other sources, and thereby produce more successful anti-crime efforts;

– the effects of inflation and the need for reductions in the Federal budget result in a need for more co-targeting of Federal and local anti-crime resources;

– the Urban Initiatives Anti-Crime Program has performed in a promising manner; and

– the First Annual Report to Congress on the Urban Initiatives Anti-Crime Program and the two General Accounting Office reports to Congress on the Program have provided useful suggestions which now can be implemented.

The new law authorizes the Secretary to enter into contracts aggregating up to $10 million over the contracts' duration from the additional ACC authority approved in appropriation Acts under Section 5(c) of the U.S. Housing Act of 1937 for fiscal year 1981 for carrying out the PHSD Act of 1978.

The new law specifically adds the Departments of Justice, Interior, Commerce and Education, and State and local agencies to the list of agencies with whom HUD must coordinate and jointly target resources under the PHSD Act of 1978.

To assess the impact of crime and vandalism in public housing projects, the new law authorizes the Secretary to collect data on crime and vandalism as part of the Annual Housing Survey or by other means, and to integrate the data collected with victimization surveys conducted by the Departments of Justice and Commerce.

The new law directs the Secretary to report to Congress no later than 18 months after the enactment of the Housing and Community Development Act of 1980. It retains provisions of existing section 207 regarding the contents of the report.

Finally, the new law directs the Secretary, to the maximum extent practicable, to use the information derived from the program for assisting in establishing PHA guidelines (1) for determining strategies to meet the security needs of the tenants in projects assisted under the U.S. Housing Act of 1937 (except for section 8), and (2) for security improvements for projects and project tenants assisted under the new comprehensive improvement assistance program authorized by Section 14 of the U.S. Housing Act of 1937. (section 209)

Restriction on use of assisted housing. The new law prohibits HUD from making assistance available under the U.S. Housing Act of 1937, Sections 235 and 236 of the National Housing Act or the rent supplement program for the benefit of any nonimmigrant student-alien.

The term "nonimmigrant student-alien" means (A) an alien having a residence in a foreign country which he or she has an intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who is admitted to the United States temporarily and solely for the purpose of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by him or her and approved by the Attorney General after consultation with the Department of Education, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, and (B) the alien spouse and minor children of any such alien if accompanying him or her or following to join him or her. (section 214)

Payment of non-Federal share. The new law provides that any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment and other services to the tenants in a project assisted under the U.S. Housing Act of 1937, other than under section 8:

(1) operating subsidies under the U.S. Housing Act of 1937; or

(2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization or operation costs financed with loans or debt service annual contributions under that Act. (section 212)

Report on housing assistance block grant program. The Secretary is required to conduct a comprehensive examination of the feasibility of a housing assistance block grant program, including replacing the categorical housing assistance programs proposed to be used in fiscal year 1982.

The study must include, but not be limited to:

– simplified and expedited application and review procedures;

– an equitable allocation formula reflecting current program experience and identified needs; and

– other recommendations as the Secretary deems appropriate. A report on this study must be submitted to the Congress not later than March 31, 1981. (section 215)

Program Amendments and Extensions (Title III)

Title III extends HUD-FHA mortgage insurance and related authorities through fiscal year 1981 and includes a new provision for a Temporary Mortgage Assistance Payments (TMAP) program. The new Act makes a number of amendments to the secondary mortgage market functions of the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC) and the Government National Mortgage Association (GNMA), including an update of GNMA's emergency mortgage purchase assistance authority contained in Section 313 of the National Housing Act – the so-called "Brooke-Cranston" authority. Title III also extends and amends the Home Mortgage Disclosure Act of 1975 and authorizes appropriations to carry out research and development activities for fiscal year 1981.

FHA Mortgage Insurance and Related Authorities

Extension of insuring authority. Authority to insure mortgages or loans under HUD/FHA mortgage insurance programs under the National Housing Act is extended to October 1, 1981. The affected insuring authorities are:

Title I – property improvement and mobile home loan insurance;

Section 203 – basic home mortgage insurance;

Section 207 – rental housing insurance;

Section 213 – cooperative housing insurance;

Section 220 – rehabilitation and neighborhood conservation housing insurance;

Section 221 – mortgage insurance for housing for moderate-income and displaced families;

Section 222 – mortgage insurance for servicemen;

Section 223 – miscellaneous housing insurance, including insurance in older, declining urban areas and for existing multifamily housing projects and hospitals;

Section 231 – housing for the elderly;

Section 232 – nursing homes;

Section 233 – experimental housing;

Section 234 – condominiums;

Section 235 – homeownership for lower-income families;

Section 236 – rental and cooperative housing for lower-income families;

Section 237 – special risk mortgages;

Section 240 – homeowner purchases of fee simple title;

Section 241 – supplemental loans for multifamily housing projects;

Section 242 – hospitals;

Section 243 – homeownership for middle-income families;

Section 244 – mortgage insurance on a co-insurance basis, including a parallel extension of the period during which statutory percentage limitations apply with respect to the aggregate principal amount of mortgages insured pursuant to section 244;

Section 245 – graduated payment mortgages;

Title VIII – armed forces related housing;

Title X – land development; and

Title XI – group practice facilities. (section 301)

Flexible interest rate authority

Extension of authority. The authority of the Secretary to set administratively FHA interest rates is extended through September 30, 1981. (section 302(a))

Amendments to authority. The new law authorizes the Secretary, in setting FHA interest rates, to take into consideration the yields on mortgages in the primary and secondary markets or home improvement and mobile home loans, as appropriate. It also requires the Secretary to seek to minimize uncertainty and speculation in connection with mortgage and loan transactions insured under the National Housing Act, and, when effective rates on home mortgages and other loans are rising, to exercise the authority to set interest rates with sufficient frequency to promote the objective of minimizing discount points payable in connection with these transactions. (section 302(b))

Negotiated interest rates under Section 203 of the National Housing Act. Notwithstanding any other provision of law, the Secretary may provide that the interest rate applicable to mortgages insured under Section 203(b) of the National Housing Act shall be a rate specified in a commitment agreement negotiated between the borrower and lender. This authority may be used only if:

– the lender discloses to the borrower, prior to the commitment, information on the applicable maximum FHA rate and a good faith estimate of the prevailing number of discount points associated with that rate;

– the agreement contains a commitment with respect to any discount points to be charged in connection with the negotiated rate;

– the agreement commits the lender to the specified rate and discount points for at least 30 days after the date on which it is entered into.

The number of mortgages which may be insured under this authority in any fiscal year may not exceed ten percent of all mortgages insured under section 203 during the preceding fiscal year, or 50,000 mortgages, whichever is greater. The provisions of this authority do not apply to Graduated Payment Mortgages insured under Section 245 of the National Housing Act.

The Secretary is required to monitor experience under this authority, and to report to Congress, by March 1, 1982, comparing the discount points and effective yields associated with mortgages insured thereunder with those associated with conventional mortgages and other mortgages insured under section 203(b). (section 332)

Temporary Mortgage Assistance Payments (TMAP's) and Assignment Program.

Overall approach. The new law revises Section 230 of the National Housing Act to authorize the Secretary, in the circumstances in which the Secretary, under prior law, could have accepted the assignment of a 1-4 family

mortgage insured under the Act, to make all or part of the monthly payments (TMAP's) due under the mortgage directly to the lender on behalf of the homeowner. Section 230 applies only if the default was caused by circumstances beyond the homeowner's control and renders him or her temporarily unable to correct a mortgage delinquency and to resume full mortgage payments.

If the Secretary determines that TMAP's are inappropriate in the case of the homeowner, the Secretary is authorized to accept an assignment of the mortgage in the general circumstances and manner described in prior section 230 and, in limited circumstances noted below, the Secretary is directed to take an assignment. The new law codifies the assignment program as discussed below. (section 341, section 230 of the National Housing Act)

TMAP's

Homeowner eligibility. The Secretary must determine that TMAP's are necessary to avoid foreclosure and that there is a reasonable prospect that the homeowner will be able to:

– resume full mortgage payments within 36 months after the beginning of the period for which TMAP's are provided or upon termination of TMAP's;

– commence repayment of TMAP payments at a time designated by the Secretary; and

– pay the mortgage in full by its maturity date, or by a later date for completing the mortgage payments established by the Secretary. (section 341, section 230(a)(2) of the National Housing Act)

Amount of payments. TMAP's can be made in an amount up to the amount of the principal, interest, taxes, assessments, grounds rents, hazard insurance, lender's expenses in connection with TMAP payments or repayments and mortgage insurance premiums due under the mortgage. The initial payment can include an amount necessary to bring the mortgage current. Payments may not exceed the amount which the Secretary determines necessary to supplement whatever amounts the homeowner is capable of contributing toward the mortgage payments. (section 341, section 230(a)(3) of the National Housing Act)

Payment period. TMAP's may be provided for a period of not to exceed 18 months and any period of default. The Secretary has the discretion to extend the payment period for not to exceed 18 additional months, where the Secretary determines that an extension is necessary to avoid foreclosure and that there is a reasonable prospect that the homeowner will be able to make the payments and repayments specified above. The Secretary must review the homeowner's financial circumstances periodically to determine the necessity for continuation, termination or adjustment of the payments. Payments must be discontinued any time the Secretary determines that, because of the homeowner's changed financial circumstances, the payments are no longer necessary to avoid foreclosure or that there is no longer a reasonable prospect that he or she will be able to make the required payments and repayments. (section 341, section 230(a)(4) of the National Housing Act)

Repayment of TMAP's. TMAP's are regarded as a loan, and are required to be secured by a lien on the property and such other obligation as the Secretary may require. Payments are repayable upon terms and conditions of the Secretary, which may include requirements for repayment of any amount paid by the Secretary toward a lender's expenses, described above. The Secretary may establish interest charges on TMAP's, but the interest rate shall not exceed the maximum 203(b) rate at the time TMAP assistance is approved. Interest charges are exempt from State or local usury provisions. (section 341, section 230(a)(5) of the National Housing Act)

Eligibility for subsequent assistance. Subsequent TMAP's are permitted, but only where full mortgage payments and repayments (if any have been requested) have been made by the homeowner for at least 12 months from the time the previous TMAP assistance was terminated. (section 341, section 230(a)(6) of the National Housing Act)

Assignment program

When assignment permitted. Assignment of a mortgage is authorized, in the general circumstances and manner as in prior law, where the Secretary determines, upon receipt of a notice of default, that assistance under TMAP would be inappropriate in the case of the homeowner. (section 341, section 230(b)(1) of the National Housing Act)

Assignment is directed, if determined necessary by the Secretary, where TMAP's are being paid with respect to the mortgage immediately prior to assignment, and the assignment is made for the sole purpose of extending the mortgage's term of repayment so that the homeowner will be able to make full mortgage payments. (section 341, section 230(b)(3) of the National Housing Act)

When assignment assistance permitted. Assistance may be provided with respect to an assigned mortgage only where:

(1) the homeowner has not received TMAP's within 12 months of the acquisition of the mortgage (except that the Secretary, where determined necessary, must acquire a mortgage being assisted under TMAP's for the sole purpose of extending the term for mortgage repayment so that the mortgagor will be able to make the full payment on the mortgage); and

(2) the Secretary determines that there is reasonable prospect that the homeowner can meet the TMAP eligibility requirements described above. (section 341, section 230(b)(2) of the National Housing Act)

Type of assistance. Assistance with respect to an assigned mortgage includes forbearance of interest or principal, or both, or through other means, and recasting or extending the mortgage maturity date in the limited circumstances noted above. Assistance also may include the Secretary's expenses in providing assistance. (section 341, section 230(b)(2) of the National Housing Act)

Period of assistance. Assistance may be provided for not to exceed 18 months after the acquisition of the mortgage, with an extension for up to an additional 18 months, upon a determination regarding the necessity to avoid foreclosure and the homeowner's ability to make the required payments and repayments. (section 341, section 230(b)(2) of the National Housing Act)

Repayment of assistance. Assignment assistance is repayable upon terms and conditions prescribed by the Secretary, but in no event shall any interest rate on the repayments exceed that chargeable for TMAP repayments. If the Secretary's expenses are included in assignment assistance, they are also repayable. Interest charges are exempt from State or local usury laws. (section 341, section 230(b)(2) of the National Housing Act)

Source of funding for TMAP's/assignment assistance. All TMAP/assignment expenditures and receipts come from, or are charged to, as appropriate, the insurance fund under which the mortgage is insured. TMAP's may only be made to the extent approved in an appropriation Act. (section 341, section 230(c) of the National Housing Act)

Homeownership counseling under TMAP's and assignment. The law directs the Secretary to provide, to the extent practicable, homeownership counseling to persons assisted under TMAP or assignment. (section 341, section 230(d) of the National Housing Act)

Federal Housing Administration General Insurance Fund. The law authorizes appropriation of an additional $139 million to cover losses sustained by the General Insurance Fund. (section 305)

Increase in mortgage limits for energy conserving improvements. The mortgage limits for FHA multifamily residential programs may be increased by up to 20 percent, when the additional sums are needed to finance the installation of qualifying energy conserving improvements. In addition, HUD's non-residential (or institutional) programs are amended to include the cost of these improvements in calculating the maximum mortgage amounts insurable under those programs. The Secretary must determine that these improvements are in addition to those required under HUD's minimum property standards and that they are cost-effective over the life of the improvement.

The increase in mortgage limits affects the following sections of the National Housing Act: section 207 – rental housing insurance; section 213 – cooperative housing insurance; section 220 – rehabilitation and neighborhood conservation housing insurance; section 221 – housing for the elderly; and section 234 – condominiums. The institutional programs affected are: section 232 – nursing homes; section 242 – hospitals; and title XI – group practice facilities.

For the purposes of these programs, qualifying energy conserving improvements are solar energy systems, as defined in subparagraph (3) of the last paragraph of section 2(a) of the National Housing Act, and residential

energy conservation measures, as defined in section 210(11)(A) through (G) and (I) of the National Energy Conservation Policy Act (P.L. 95-619). (section 310)

Definition of mortgage under the National Housing Act. Prior law treated as insurable mortgages those covering a leasehold, if the lease had a "period of not less than fifty years to run from the date the mortgage was executed." The new law permits insurance where the lease has a "period of not less than 10 years to run beyond the maturity date of the mortgage". (section 306)

Title insurance relief – Indian Claims. The law authorizes the Secretary, notwithstanding any other provision of Title II of the National Housing Act, to insure under section 203(b), as modified by this special provision, a mortgage which meets both the requirements of this provision and such criteria as the Secretary may prescribe to further the provision's purpose. The authority may be used only in communities where the Secretary determines that:

(1) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band or nation;

(2) these ownership claims are reasonably likely to be settled, by court action or otherwise; and

(3) 50 or more individual homeowners were joined as parties defendant or were members of a defendant class prior to April 1, 1980, in litigation involving Indian claims to ownership of land in the community under the Articles of Confederation, the Trade and Intercourse Act of 1790 or any similar State or Federal law.

Insurance would be available without regard to the limitations in title II relating to marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this authority, but only if the mortgagor is an owner-occupant of a home in a community specified above. In connection with any mortgage

Insurance would be available without regard to the limitations in title II relating to marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this authority, but only if the mortgagor is an owner-occupant of a home in a community specified above. In connection with any mortgage so insured, the Secretary has the same statutory powers, authority and responsibilities as with other mortgages insured under section 203(b), except that the Secretary may modify the powers, authority or responsibilities where this action is deemed necessary because of the special nature of the mortgage involved. The insurance of a mortgage pursuant to this authority is the obligation of the Special Risk Insurance Fund. (section 328)

Section 220 mortgage insurance in areas of concentrated community development activities. Prior law limited the availability of section 220 home and multifamily mortgage insurance to properties in urban renewal or code enforcement areas. The new law extends availability to properties located in areas designated by the Secretary, where concentrated housing, physical development and public service activities are being or will be carried out in a coordinated manner, pursuant to a locally developed strategy for neighborhood improvement, conservation or preservation. (section 311)

FHA mortgage limits. The new law retains the existing maximum mortgage amounts under Section 203(b) of the National Housing Act – $67,500 for a one-family residence, $76,000 for a two-family residence, $92,000 for a three-family residence and $107,000 for a four-family residence. It permits, however, the Secretary to increase these dollar amounts on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate-and middle-income persons have limited housing opportunities in the area due to high prevailing housing sales prices. In no case may these limits, as so increased, exceed the lesser of (1) 133⅓ percent of the appropriate dollar amount specified above, or (2), in the case of a one-family residence, 95 percent of the median one-family house price in the area, as determined by the Secretary; in the case of a two-family residence, 107 percent of this median price; in the case of three-family residence, 130 percent of this median price; or in the case of four-family residence, 150 percent of this median price. (section 336(a))

With respect to rehabilitation and neighborhood conservation housing insurance for single-family dwellings under Section 220(d)(3)(A) of the Act, the law deletes the maximum dollar limits (which were the same as those contained in prior section 203(b)) and provides that the limits shall not exceed the applicable maximum principal obligation insurable in the area under section 203(b). It also increases the per-unit mortgage limits, for additional units in excess of four, under that section from $8,250 to $9,165. (section 336(b))

The maximum individual condominium unit limit under Section 234(c) of the Act ($67,500) is retained, with discretionary authority in the Secretary to increase this limit in the circumstances and manner provided under the revised section 203(b) for one-family residences, except that the 133⅓ percent limit under that section is reduced to 111 percent. (section 336(d))

Section 222 (mortgage insurance for servicemen) mortgage loan ceilings are deleted, thereby incorporating by reference the applicable limits under sections 203, 221(d)(2) and 234(c). In addition, section 222 insurance is limited to one-family residences and condominium units. (section 336(c))

Finally, the Secretary is required to conduct a study of the appropriate role FHA, through the provision of mortgage and loan insurance, should play (1) in assisting various income groups to obtain homeownership, (2) in assuring an adequate level of new home construction, (3) in assuring an adequate flow of capital into mortgage markets and (4) in moderating housing costs. The study is to examine the desirability and feasibility of establishing mortgage limits on an area-by-area basis and of doing so by relating these limits to housing sales price data or indices. The Secretary is required to prepare a report, including recommendations as are deemed appropriate based upon the study, and to submit it to the Congress by March 1, 1981. (section 336(e))

Deletion of references to remaining economic life. The law deletes from certain insuring authorities in the National Housing Act references to the use of "remaining economic life" as one of the underwriting criteria for determining the maximum term of an insurable mortgage. Affected provisions are section 203(b) (basic home mortgage insurance), section 220(h) (home mortgage loans), section 221(d)(2) (single family housing for moderate-income and displaced families), section 221(i) (conversion of BMIR's to family unit ownership), section 234(c) (condominium units) and section 240 (purchase of fee simple title from lessors). Other criteria, including those which specify that the maturity date must be satisfactory to the Secretary and which fix, by statute, a maximum number of years for the term, are retained. (section 333)

Rental Housing Preservation. Section 223(f) of the National Housing Act is amended to authorize the Secretary to make available not to exceed $30 million of available GNMA Tandem authority for the purchase or refinancing of mortgages under section 223(f) covering a multifamily rental housing project located in an older, declining urban area. This authority is to be used to reduce interest rates on low- and moderate-income rental housing in projects of 100 units or less which otherwise could not support refinancing and moderate rehabilitation without causing excessive rent burdens on current tenants due to rent increases.

Provisions in existing law which require the Secretary to assure that, during the term of a mortgage covering such a multifamily project purchased or refinanced under section 223(f), no rental increases may be made (except those necessary to offset operating expenses or other necessary expense increases approved by the Secretary) are expanded to provide that rental increases may also be made where necessary to maintain reasonable profit levels approved by the Secretary.

Finally, section 223(f) is amended to specify that, for all insurance provided under subsection (f) pursuant to a commitment entered into after the date of enactment of the Housing and Community Development Act of 1980, the Secretary may not accept an offer to prepay or a request for refinancing of a mortgage secured by rental housing, unless the Secretary takes appropriate action that will obligate the borrower (and successors in interest) to use the property as rental property for a period of 20 years in the case of a mortgage purchased by GNMA pursuant to its Tandem authority, otherwise 5 years, from the date on which the insurance was provided. This restriction may be waived if the Secretary finds that–

(1) the conversion of the property to a cooperative or condominium form of ownership is sponsored by a bona fide tenants' organization representing a majority of the households in the project;

(2) continuance of the property as rental housing is clearly unnecessary to assure adequate rental housing opportunities for low- and moderate-income people in the community; or

(3) continuance of the property as rental housing would have an undesirable and deleterious effect on the surrounding neighborhood. (section 327)

Supplemental loans. The general authority of the Secretary under Section 241(e)(1) of the National Housing Act to insure a supplemental loan for the purchase or installation of individual utility meters in multifamily housing projects is now limited to cases where the meters are purchased or installed in connection with other energy conserving improvements or a solar energy system, or the project meets minimum energy conservation standards established by the Secretary. (section 314)

Time of payment of premium charges. The Secretary shall require the prompt payment to HUD of mortgage insurance premiums collected by mortgagees and lenders in connection with the loan and mortgage insurance programs of the National Housing Act. The Secretary may, however, approve payment of premiums within 24 months of receipt by the lender, if the lender pays interest at a rate specified by the Secretary beginning 20 days after lender receipt of the premium. (section 320)

Foreclosure of loans under the section 203(k) rehabilitation loan insurance program. This is a technical amendment to permit mortgagees to foreclose upon defaulted section 203(k) rehabilitation loans which are secured by a first mortgage, in the same manner as is authorized for foreclosures under the FHA's basic section 203(b) home insurance program. Under prior law, only HUD could foreclose on these loans. Procedures under prior law for the settlement of claims on section 203(k) loans secured by other than a first mortgage are not changed. (section 321)

Insurance of VA-approved condominiums. The new law permits the Secretary to insure, under Section 234(c) of the National Housing Act, in addition to mortgages which already qualify under that subsection, individual-unit mortgages in condominium projects which have been approved for guarantee insurance or for a direct loan by the Veterans Administration. (section 318)

Minimum property standards exemption for masonry construction. The new law requires the Secretary to conduct an analysis of the cost of construction, heating and cooling masonry, frame, log and other buildings that comply with the increased thermal requirements for HUD's minimum property standards and on the competitive economic impact of applying these increased thermal standards or permitting any exemptions from them. A report on this study must be submitted to the Congress on August 1, 1981.

If the analysis shows there is an economic justification for any exemption from the thermal standards, an appropriate exemption for a specific construction type in a specific geographical location may be provided by the Secretary.

Until the Secretary submits the report described above to the Congress, any final rule published for effect by the Secretary pertaining to increases in thermal requirements for HUD's minimum property standards shall provide for the continuation of any local acceptable standards exemptions, approved by the Secretary prior to May 31, 1979, which are applicable to masonry construction. (section 331)

Mobile Home – Manufactured Housing Amendments

Change in name of "mobile home" to "manufactured home." The new law substitutes the term "manufactured home" for "mobile home" wherever it appears in the National Housing Act, the U.S. Housing Act of 1937, Title VI of the Housing and Community Development Act of 1974 (Mobile Home Construction and Safety Standards) and the Depository Institutions Deregulation and Monetary Control Act of 1980.

In adopting regulations and procedures in accordance with this name change, the Secretary has discretion to take actions to insure that the public is fully aware of the distinctions among the various types of factory-built housing. (section 308(c))

Definition of manufactured home (park models). The dimensions of a manufactured home, as defined in the National Mobile Home Construction and Safety Standards Act of 1974, are modified to cover a structure which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet. The term also includes any structure which meets all the requirements of the Act, except the size requirements, if the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under the Act. Under prior law, the applicable dimensions were 8 or more body feet in width and 32 or more body feet in length. (section 308(d))

Manufactured home limits. In general, the maximum amounts insurable under Title I of the National Housing Act for various categories of manufactured homes are increased to the following amounts:

– $20,000 ($30,000 for 2 or more modules) for a manufactured home;

– $26,675 ($36,675 for 2 or more modules) for a manufactured home and undeveloped lot;

– $30,550 ($40,550 for 2 or more modules) for a manufactured home and developed lot; and

– $9,375 ($10,425 with respect to a developed lot) for a lot on which to place a manufactured home. (section 308(a))

In areas where there are high land or set-up costs (other than Alaska, Guam or Hawaii), however, the following increased maximum amounts apply:

– $32,500 ($43,000 for 2 or more modules) for a manufactured home and undeveloped lot;

– $38,100 ($49,000 for 2 or more modules) for a manufactured home and developed lot; and

– $11,750 ($17,450 with respect to a developed lot) for a lot on which to place a manufactured home. (section 308(b))

Manufactured home price study. The new law requires the Secretary, not later than January 1, 1982, to develop a procedure for collecting and regularly reporting data on the mean and median sales price for new manufactured homes and, where available, data on the mean and median sales price for manufactured home lots and combination new manufactured home and lot packages. The reports must contain, to the maximum extent feasible, sales price information for the Nation, each census region, each State on an annual basis and selected SMSA's having sufficient activity on an annual basis. (section 308(e))

Study and report on use of non-traditional housing for Indians and Alaskan Natives. The Secretary of HUD is to study the feasibility of using factory-built and other appropriate types of housing (other than the traditional type of site-built housing), to the extent practicable, in carrying out housing programs for Indians and Alaskan Natives. A report must be submitted to the Congress within eighteen months of enactment containing the findings and conclusions of the study, including a comparison of the costs and benefits of using the traditional type of site-built housing and of using other types of housing in situations in which either type of housing could be used. (section 323)

Energy Standards for New Buildings

The new law amends the Energy Conservation Standards for New Buildings Act of 1976 to extend the deadline for promulgation by the Department of Energy of the final rule for building energy conservation performance standards (BEPS) under the Act from "within six months after the date of publication of the proposed standards" to April 1, 1983. (section 326(a))

A further amendment to the Act directs the Secretary of Energy to promulgate interim standards for BEPS by August 1, 1981 and, for at least the 12-month period beginning on the date of promulgation, to conduct a commercial building and a residential building demonstration project in at least two geographical areas in different climatic areas of the country using those standards. Prior to the effective date of the final performance standards, and not later than six months after completing the demonstration projects, the DOE Secretary shall transmit to the Congress a report containing an analysis of the findings and conclusions reached as a result of each of the demonstration programs.

The report on the commercial building demonstration must include, at least, an analysis of the effect such standards would have on the design, construction cost and estimated total energy savings from various energy sources that would result from the application of these standards to commercial buildings.

The report on the residential building demonstration shall include at least an analysis of the impact of such standards on builders (particularly on small builders), on residential construction costs and on the ability of low- and moderate-income persons to purchase or rent such buildings. The report shall also analyze the estimated total energy savings from various energy sources that would result from utilizing the standards in residential buildings. (section 326(b) and (c))

The amendment also requires the head of each Federal agency responsible for the construction of any Federal building to adopt procedures to assure that all such construction meets or exceeds the applicable interim building energy performance standards. When final performance standards become effective, they are to be applied to all new Federal buildings as in prior law. (section 326(d))

Finally, there is an amendment to Section 526 of the National Housing Act to make clear that the requirement in that section, that the HUD minimum property standards establish energy performance requirements for new construction is not related to the date of promulgation of final BEPS regulations. (section 326(e))

Provisions Relating to Secondary Mortgage Market

Emergency Home Purchase Assistance Authority Amendments

Extension of authority. The Government National Mortgage Association's (GNMA) emergency authority to enter into new commitments to purchase mortgages under Section 313 of the National Housing Act is extended until October 1, 1981. (section 337(a))

Program Amendments.

Activation of authority. The new law provides that, as part of the required findings for initiating the emergency program, the Secretary must determine that its implementation will not significantly worsen inflationary conditions. (section 337(b)(1))

Use of authority for existing homes. The new law permits the Secretary to make available a portion of authority under the Emergency Home Purchase Assistance Act to purchase mortgages covering housing which has been constructed more than twelve months prior to "the issuance of the commitment to purchase the mortgage," where the Secretary determines that there is a serious shortage of mortgage credit to purchase this housing. Prior law limited these purchases to mortgages covering housing constructed prior to October 13, 1973. (section 337(b)(11))

GNMA-guaranteed manufactured home securities. The new law permits GNMA to purchase and make commitments to purchase and otherwise deal in securities guaranteed by the Association and backed by loans or advances of credit insured under Title I of the National Housing Act or guaranteed by the Veterans Administration under chapter 37 of title 38 U.S.C. and made for the purchase of a manufactured home and lot or a manufactured home. This authority may only be used if all of the loans or advances backing the security (1) finance the purchase of manufactured homes and lots or manufactured homes which will be the borrowers' principal residences and (2) involve an interest rate set by the Secretary, which shall be as high as feasible, consistent with meeting the objectives of the authority, but not lower than three percentage points less than the title I rate. (section 337(b)(2)-(4) and (9)-(12))

Inclusion of FmHA-guaranteed loans. The law authorizes GNMA to purchase and otherwise deal in single-family mortgages guaranteed by the Farmers Home Administration under Title V of the Housing Act of 1949. (section 337(b)(5))

Maximum mortgage amounts. In the case of one-to four-family residences, the new law deletes maximum mortgage limits altogether. For multifamily properties, the law deletes specific dollar limits and applies, for FHA-insured loans, the applicable per unit limitations and, for conventional loans, the section 207, 213 or 234 limits, depending on whether the project in question is rental, cooperative or condominium. For manufactured homes, the dollar limitations contained in Section 2(b) of the National Housing Act apply. (section 337(b)(6))

Sales price limits. The law provides that the single-family sales price limit cannot exceed 92 percent of the applicable maximum principal obligation which may be insured under Section 203(b) of the National Housing Act. (section 337(b)(8)) (Replaces flat dollar limits in prior law.)

Interest rate. The new law provides that the interest rate on mortgages purchased shall be established by the Secretary as high as feasible, consistent with carrying out the objectives of the authority at the lowest feasible cost. However, if the mortgage is executed to finance the acquisition of a one- to four-family residence, it may not bear interest at a rate lower than three percentage points below the average contract commitment rate for single-family, 30-year conventional mortgages with loan-to-value ratios of 90 percent, in the monthly survey of all major lenders conducted by the Federal Home Loan Bank Board which is most recently available at the time that funds are released. If the mortgage is executed to finance the acquisition of a more than four-family residence, it may not bear an interest rate lower than 4½ percentage points below such average contract commitment rate. Under prior law, the interest rate could not exceed the lesser of 7½ percent or the applicable section 203(b) rate. (section 337(b)(7))

Purchase of mortgages financing condominium or cooperative conversions. The law prohibits GNMA from purchasing any loan executed or made to finance the conversion of an existing rental housing project into a

condominium or cooperative project or to finance the purchase of an individual unit in connection with such a conversion. (section 337(b)(13) and (14)) (Under prior law, this prohibition extended only to non-insured projects being converted to condominiums.)

Conservation of land and energy. The law provides that in carrying out the provisions of this emergency authority GNMA shall, to the extent practicable, purchase mortgages secured by dwelling units which contribute to the conservation of land and energy resources. (section 337(b)(14))

Increase in GNMA mortgage purchase authority. The law increases GNMA's statutory mortgage purchase authority under the Special Assistance Functions (Section 305 of the National Housing Act) by $900,000,000 on October 1, 1980. (section 338)

Authority to protect the Government's interest in bankruptcy situations. Section 306(g) of the National Housing Act is amended to make clear that, in connection with the Mortgage-Backed Securities Program, no State or local law, or Federal law (unless enacted expressly to limit this provision after its effective date) shall preclude or limit GNMA's right to:

(1) contract with the securities' issuers, as provided in existing law, for the extinguishment, upon default, of the issuer's interests in any mortgage or mortgages constituting the trust or pool against which the guaranteed securities are issued;

(2) enforce any such contract with the issuer; or

(3) enforce its ownership rights, as provided in existing law, in the mortgages constituting such pool or trust. (section 335)

Elimination of section 8 condition on GNMA purchase of certain multifamily mortgages. The new law deletes the prohibition in prior law which provided that GNMA could purchase a mortgage under Section 305 of the National Housing Act (Special Assistance Functions) with an original principal obligation which exceeded the otherwise applicable maximum amount per dwelling unit only if at least 20 percent of the units covered by the mortgage were assisted under contracts authorized by Section 8 of the U.S. Housing Act of 1937. The amendment has the effect of permitting GNMA to purchase any multifamily mortgage insured under specified provisions of the National Housing Act. (section 309)

Mortgage limits for FNMA and FHLMC purchase of conventional mortgages. The law establishes new maximum principal obligation limits for conventional mortgages purchased by the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC). The limits may not exceed $93,750 for a single-family residence, $120,000 for a two-family residence, $145,000 for a three-family residence and $180,000 for a four-family residence. These limits are to be adjusted as of January 1 of each year, beginning with 1981. The adjustment will be made by adding to the maximum limitation (as it may have been previously adjusted) a percentage equal to the percentage increase during the twelve-month period ending with the previous October in the national average one-family house prices in the monthly survey of all major lenders conducted by the Federal Home Loan Bank Board. For multifamily properties, the limits may not exceed 125 percent of the limits established under Section 207(c)(3) of the National Housing Act. For properties located in Alaska, Guam and Hawaii, the foregoing limits may be increased by up to 50 percent. (section 313)

FNMA authority amendments. The new law makes two amendments to FNMA's mortgage purchase authority. The first authorizes FNMA, with HUD approval, to deal in loans or advances of credit for the purchase and installation of home improvements including, in addition to the solar systems and energy conserving improvements eligible under existing law, residential energy conservation measures described in Section 210(11) of the National Energy Conservation Policy Act and financed by a public utility as described in title II of that Act. To be eligible for purchase, any such loan or advance of credit (other than one relating to energy matters) must either be secured by a lien against the property to be improved or be insured under Title I of the National Housing Act. (Existing law requires insured energy improvements to be secured as required by FNMA.)

The second change authorizes FNMA, with HUD approval, to deal in loans and advances of credit secured by mortgages or other liens against manufactured homes.

When FNMA submits its proposals to the Secretary of HUD to implement these authorities, HUD is required to approve the proposals within 75 days or to transmit to the Congress a report explaining why they have not been approved. (section 339)

FNMA authority to deal in cooperative loans. The new law authorizes FNMA to purchase cooperative apartment loans by providing that the term "conventional mortgages" shall include a security interest with respect to the stock or membership certificate issued to tenant-stockholders or resident-members of a cooperative housing corporation, as defined in Section 216 of the Internal Revenue Code of 1954, and on the proprietary lease, occupancy agreement or right of tenancy in a dwelling unit of the tenant-stockholder or resident-member in such corporation. (section 313(a))

FNMA Mortgage-Backed Securities Program. If FNMA submits to the Secretary of HUD or the Secretary of the Treasury, after the date of enactment of this provision, a proposal with respect to undertaking a mortgage-backed securities program, the appropriate Secretary is required, within 90 days after submission of the proposal, to approve it or transmit to the Congress a report explaining why it has not been approved. (section 330)

Home Mortgage Disclosure Act (HMDA) Amendments

Designation of SMSA's. The new law makes a technical change substituting the Department of Commerce for OMB as the entity responsible for establishing SMSA's. (section 340(a)(1))

Reporting requirements. Prior law required depository institutions to report SMSA lending activity by census tracts, where readily available at a reasonable cost, as determined by the Federal Reserve Board, otherwise by ZIP Code. Under the new law, depository institutions must report lending activity by census tracts for loans secured by property located within any county within an SMSA with a population of more than 30,000; for counties under 30,000 population within SMSA's, reporting is to be made by county. (section 340(a)(2))

Standardized reporting period. Lending data required to be disclosed under the Act for 1980 and thereafter is to be disclosed on a calendar year basis. (Prior law used the depository institution's fiscal year.) Depository institutions which have been reporting on a noncalendar year basis must make available a separate disclosure statement containing data for any period prior to calendar year 1980 which is not covered by the last full-year report prior to the 1980 calendar year report. (section 340(a)(3))

Standardized reporting format. The Federal Reserve Board is directed to prescribe a standard format for the disclosures required by HMDA. (section 340(a)(3))

Central depositories of data. The Federal Financial Institutions Examination Council shall, in consultation with HUD, implement a system to facilitate access to lending data required to be disclosed under HMDA. The system must include arrangements for a central depository of data in each SMSA. Disclosure statements are to be made available to the public for inspection and copying at the central depository for all depository institutions which are required to disclose information under section 304 (or which are exempt by reason of having substantially equivalent State or local laws) and which have a home or branch office within such SMSA. (section 340(a)(3))

Extension of Act. The law extends HMDA for five years. (section 340(b))

Compilation of aggregate data. Beginning with data for calendar year 1980, the Federal Financial Institutions Examination Council must compile each year, for each SMSA, aggregate data by census tract for all depository institutions which are required to disclose data under the Act or which are exempt by reason of substantially equivalent State or local law. The Council shall also produce tables indicating, for each SMSA, aggregate lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level and racial characteristics. The Federal Reserve Board is required to provide staff and data processing resources to the Council to enable it to carry out these compilations. The data and tables required shall be made available to the public by December 31 of the year following the calendar year on which the data are based. (section 340(c))

Disclosure by the HUD Secretary. Beginning with data for calendar year 1980, the Secretary of HUD shall make publicly available data in the Secretary's possession for each mortgagee which is not otherwise subject to the requirements of HMDA and which is not exempt by reason of equivalent State or local law, with respect to

mortgage loans approved by the Secretary for insurance under Titles I or II of the National Housing Act. The data to be disclosed shall be comparable to those required for mortgages subject to HMDA. Disclosure statements shall, at a minimum, be publicly available at the central depository of data established by the Federal Financial Institutions Examination Council for the SMSA. The Secretary shall also compile aggregate lending patterns and make them available to the public in a manner comparable to the information required to be made available by the Federal Financial Institutions Examination Council. (section 340(c))

Small business loan study. The Federal Financial Institutions Examination Council, in consultation with the Small Business Administration, shall conduct a study to assess the feasibility and usefulness of requiring depository institutions which make small business loans to compile and publicly disclose information regarding such loans. The Council shall submit a report on the results of this study, together with recommendations, to the House and Senate Banking Committees not later than March 1, 1981. (section 340(d))

Feasibility report on unified system for carrying out certain laws. To promote maximum efficiency and avoid duplication, the Federal Financial Institutions Examination Council shall transmit a report to the Congress, not later than September 30, 1982, on the feasibility and desirability of establishing a unified system for enforcing fair lending laws and regulations, implementing the Community Reinvestment Act of 1977 and satisfying the public disclosure purposes of HMDA. The report shall evaluate the status and effectiveness of data collection and analysis systems of agencies involving fair lending and community reinvestment, and shall outline possible specific timetables for implementing a unified system. (section 340(e))

Miscellaneous Program Amendments

Funding for research and studies. Appropriations of not to exceed $51 million are authorized for fiscal year 1981 for the HUD research program under Title V of the Housing and Urban Development Act of 1970. (section 303)

Also, appropriations of not to exceed $61.6 million are authorized for fiscal year 1981 for flood insurance studies to be carried out by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968. (section 304)

Participation by local persons and firms in assisted projects. Section 3 of the Housing and Urban Development Act of 1968 is amended to provide that opportunities for training and employment arising in connection with the planning and carrying out of HUD-assisted projects is, to the greatest extent feasible, to be made available to lower-income persons residing "within the unit of local government or metropolitan area (or nonmetropolitan county), as determined by the Secretary, in which the project is located." The provision further amends section 3 to require that, to the greatest extent feasible, contracts for work to be performed in connection with HUD-assisted projects be awarded to business concerns located in, or in substantial part owned by, persons residing "in the same metropolitan area (or nonmetropolitan county) as the project." These changes replace the requirement in prior law that the persons and business concerns given preference reside or be located in the "area of the project." (section 329)

Moderate rehabilitation of small group homes and similar facilities for the handicapped. In the case of housing for handicapped (primarily nonelderly) persons, the new law expands the definition of "development cost" under Section 202(d)(3) of the Housing Act of 1959 to include the cost of acquiring existing housing and related facilities, the cost of rehabilitation, alteration, conversion or improvement, including moderate rehabilitation, and the cost of the land on which the housing and related facilities are located. (section 319)

Preemption of State usury laws. The new law includes several amendments to State usury law preemption provisions contained in the Depository Institutions Deregulation and Monetary Control Act of 1980.

Refinancing of cooperative units. State usury laws do not apply to any loan, mortgage, credit sale or advance which is secured by a first lien on all stock allocated to a dwelling unit in a residential cooperative housing corporation. Prior law provided for the preemption of State usury laws in the refinancing of such units where there was a first lien on the residential cooperative housing corporation's stock and where the loan, mortgage or advance was used to finance the acquisition of this stock. (section 324(a))

Definitions. The law provides the following definitions with respect to Part B of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Business and Agricultural Loans):

– the term "loan" includes all secured and unsecured loans, credit sales, forebearances, advances, renewals or other extensions of credit made by or to any person or organization for business or agricultural purposes;

– the term "interest" includes any compensation for a loan, however denominated;

– the term "organization" means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, association or other entity; and

– the term "person" means a natural person or organization. (section 324(b))

Clarification of Part B loan date and amount. For purposes of applying the preemption provisions of Part B of the Act (requiring that business and agricultural loans be made during the period of time beginning on April 1, 1980 and ending on the earlier of April 1, 1983 or the date on which a State enacts a law or certifies that it does not want Part B to apply to loans within that State), the new law provides the following clarification as to loans to which the preemption provisions apply:

– loans that are funded or made in whole or in part during the period of time described above, regardless of whether this was done pursuant to a commitment or other agreement made prior to April 1, 1980;

– loans that were made prior to or on April 1, 1980, which bear or provide for interest during the described period on the outstanding amount at a variable or fluctuating rate; or

– loans that are renewals, extensions or other modifications during this period of any loan, if the renewal, extension or other modification is made with the written consent of any person obligated to repay that loan.

The new law also changes the minimum amount of the loan under Part B from $25,000 to $1,000 for loans made on or after the date of enactment of the Housing and Community Development Act of 1980. The loan amount may be (1) an original principal amount of either $25,000 or more or $1,000 or more, depending on the date the loan was made, or (2) part of a series of advances if the aggregate of all sums advanced or agreed or contemplated to be advanced pursuant to a commitment or other agreement is $25,000 or more, or $1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980. (section 324(c) and (d))

Residential property loans. The new law preempts State usury laws in the case of any individual who finances the sale or exchange of residential real property which the individual owns and occupies or has occupied as his or her principal residence. (section 324(e))

Neighborhood Reinvestment Corporation. The new law changes the name of the National Neighborhood Reinvestment Corporation by deleting "National" and changes the responsibility of the Corporation from one of "supervising" to "monitoring" the progress of neighborhood housing services. The law also authorizes appropriations of not to exceed $13.426 million for the Corporation for fiscal year 1981. (section 315)

Study and report on mutual housing association demonstration. The new law sets forth congressional findings recognizing the significant potential of mutual housing associations for helping make multifamily housing in the United States more affordable, and commending and encouraging the efforts being made in connection with the national demonstration program of mutual housing associations being undertaken by the Neighborhood Reinvestment Corporation and the National Consumer Cooperative Bank, with the cooperation of HUD.

The Act requires the Corporation, in conjunction with the Bank and HUD, to transmit a report to the Congress on the findings and conclusions reached as a result of the demonstration program described above, together with legislative recommendations, not later than September 30, 1981. (section 316)

Valley Homes Mutual Housing Corporation. The law contains a special provision directing GNMA to release, and releasing, the Valley Homes Mutual Housing Corporation from all liability to the Government on a note and mortgage secured by a multifamily housing project located in Lincoln Heights, Ohio. This release is in full

settlement of any claims the Corporation may have against the United States concerning the purchase of this property from the United States Public Housing Administration in 1954. Limitations are also placed on the fees which may be payable to attorneys and others in connection with the Corporation's claims against the United States. (section 322)

Collection of delinquency data. The Secretary is required to conduct a study to examine the feasibility of collecting data pertaining to all home mortgage delinquencies on an appropriate regional basis. The Secretary shall transmit to the Congress a report containing the results of the study, as soon as practicable, but not later than April 1, 1981. (section 317)

Report on housing production goals. The new law changes the date by which the President must submit to the Congress the annual report on housing production goals from January 20 to March 15, beginning with calendar year 1981. The law also requires the report to set general objectives for housing production and rehabilitation for the year following the year of submission of the report, and to identify legislative and administrative actions which will or should be adopted during such year, as feasible. (section 312)

For the relief of Springfield, Illinois. The law provides that, notwithstanding the provision of Title VII of the Housing Act of 1961 (Open-Space Land) or any other law, the transactions under which land acquired by the City of Springfield, Illinois in connection with certain Open-Space Land projects was transferred by the City to the United States Department of the Interior for the Lincoln Home National Historic Site shall be deemed to have been made in accordance with all provisions of title VII or any other law. (section 307)

Federal Home Loan Bank Act amendments. The new law adds as categories qualifying as liquidity investments for Federal Home Loan Bank System members, to the extent approved by the Federal Home Loan Bank Board, (1) highly rated corporate debt obligations with 3 or less years remaining to maturity, (2) highly rated commercial paper with 270 days or less remaining to maturity and (3) unpledged deposits in the Savings Bank Trust Co., N.Y., N.Y. (section 325)

Legislative Veto. Section 7(o)(3) of the Department of Housing and Urban Development Act is amended to extend, from 20 to 30 calendar days of continuous session of Congress, the time period within which rules or regulations published by HUD as final may become effective, and to extend similarly from 20 to 30 days the time period within which either the House or the Senate Banking Committee may report out or be discharged from a resolution of disapproval. The amendment only applies to regulations published as final on or after its effective date. (section 334)

Planning Assistance (Title IV)

The new law revises Section 701 of the Housing Act of 1954 to state new findings and purposes, define a series of "National Policy Objectives" and provide for a revised planning assistance program, with emphasis on (1) the development of strategies and action programs to implement planning objectives, (2) performance funding and (3) the relationship between planning activity at the State and local levels and Federal program undertakings affecting the geographical areas in which the planning has occurred.

Congressional Findings

The new law states the following congressional findings:

- The general welfare requires the conservation and the orderly and efficient growth and development of the Nation's communities, particularly those suffering from fiscal, economic and social distress.

- Effective and coordinated planning efforts at all levels of government are necessary in order to achieve this conservation, growth and development effectively and efficiently.

- A major component of planning efforts should be detailed strategies that can guide governmental actions in order to assure that, to the maximum extent practicable, goals and objectives of the plans will be achieved through implementation of planning efforts.

- Planning efforts and strategies should be consistent with National Policy Objectives.

- Federal actions and programs, to the extent practicable, should be administered in conformance with State, areawide and local plans and strategies. (section 401, section 701 (a) of the Housing Act of 1954)

Purposes

As contained in the new law, the purposes of the section 701 program are:

- To provide assistance to encourage State and local governments and areawide planning organizations (APO's) to develop strategies for implementing comprehensive plans (or plan components) and to develop, to the extent necessary, comprehensive plans or components thereof; particular emphasis is to be given to those strategies which are designed to implement the components of the plan which relate to the National Policy Objectives.

- To encourage maximum coordination of Federal policy and program decisions with these plans and strategies. (section 401, section 701(b) of the Housing Act of 1954)

Definitions

The new law contains the following definitions:

- The term "Secretary" means the Secretary of HUD.

- The term "State" means any State of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

- The term "unit of general local government" means any city, county, township, parish, village or other general purpose political subdivision of a State.

- The term "Indian tribe" means any Indian tribe, band, group and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512 – General Revenue Sharing).

- The term "metropolitan area" means a standard metropolitan statistical area (SMSA), established by the Department of Commerce, except that, where the Secretary of HUD deems it appropriate to carry out section 701's purposes, the Secretary may modify or extend such an area, but the modification or extension shall not affect the boundaries of any SMSA for any other purpose.

- The term "areawide planning organization" means any multijurisdictional unit which (1) is established under State law, interstate compact or interlocal agreement for the purpose of formulating policies and plans for the orderly development of a substate or interstate region; (2) is formally charged with carrying out the provisions of Section 401 of the Intergovernmental Cooperation Act of 1968; (3) in the absence of State law to the contrary, has at least a majority of elected officials from local governments on its governing body; and (4) meets other standards prescribed by the Secretary.

- The term "National Policy Objectives" means:

(1) the conservation and improvement of existing communities, particularly the improvement of those characterized by fiscal, economic or social distress;

(2) an increase in housing and employment opportunities and choices and a reduction in housing costs, particularly for lower-income persons, minorities, women and persons with special needs, such as the elderly and handicapped; and

(3) the promotion of orderly and efficient growth and development of communities, regions and States, taking into consideration the necessity of conserving energy.

- The term "comprehensive plan" means a plan which includes, at least, housing and land use elements which take into account factors prescribed by the Secretary, including those required to achieve the National Policy Objectives.

- The term "strategy" means a detailed strategy statement designed to identify and describe the actions required to implement the comprehensive plan to achieve, to the maximum extent practicable, the plan's goals and objectives or, in the absence of a plan, the actions which will be required to develop a comprehensive plan.

- The term "action program" means a program including (1) an identification of specific actions that are necessary for implementing elements included in the strategy statement; (2) an identification of the governmental entity responsible for undertaking each action; (3) a timetable specifying when each action may be reasonably expected to be carried out; and (4) to the maximum extent practicable, agreements by the governmental entities responsible for undertaking such actions that they will do so. (section 401, section 701(c) of the Housing Act of 1954)

Eligible Grantees

The new law authorizes the Secretary to contract to make, and to make, annual grants approved in accordance with the revised program to:

- States, for statewide activities;

- States, for the provision of assistance to (1) nonmetropolitan APO's, (2) units of general local government (except counties) having a population of less than 50,000, (3) counties (other than urban counties) and (4) adjacent units of local government having a total population of less than 50,000 with related planning needs; however, grants may not be made to these entities where the State would be undertaking the eligible activities on their behalf, unless they request the State to do so;

- metropolitan APO's;

- units of general local government having a total population of 50,000 or more;

- urban counties;

- Indian tribes; and

- the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa and the Trust Territory of the Pacific Islands. (section 401, section 701 (d)(1) of the Housing Act of 1954)

The Secretary may make grants to States for the provision of assistance to metropolitan APO's, units of general local government with populations of 50,000 or more and urban counties, if these entities do not receive funding directly from HUD and notify HUD of their desire to be funded through the State. (section 401, section 701(d) (2) of the Housing Act of 1954)

Eligible Activities

Grants may be made only for activities determined by the Secretary to be necessary to assist:

- in the development of strategies and action programs to implement a comprehensive plan or part thereof, or related plans or planning and, where a plan does not exist or is determined by the Secretary to be inadequate, in the development of a comprehensive plan;

- in the development of evaluations or studies related to a plan, strategies or action programs; or

- in carrying out the clearinghouse functions required under OMB Circular A-95. (section 401, section 701(e) of the Housing Act of 1954)

Section 701 grants may be used only to implement planning and related activities necessary to carry out the provision's purposes. Grant assistance may not be used to defray the cost of the acquisition, construction, repair or rehabilitation of, or the preparation of engineering drawings or similar detailed specifications for, specific housing, capital facilities, public works projects, or to finance routine State and local government administrative responsibilities.

Grants for the preparation of applications for Federal financial assistance may be made to communities with populations of 25,000 or less, or communities with populations above 25,000 but less than 50,000 which meet action grant selection criteria contained in Section 119(e) of the Housing and Community Development Act of 1974. Preference for this funding is to be given to communities with populations of 25,000 or less. (section 401, section 701(m) of the Housing Act of 1954)

Development and Implementation of Strategies, Action Programs and Plans

The Secretary must require each recipient to develop strategies and action programs, and to maintain and update a comprehensive plan and a planning process. An exception to this latter requirement is made for a recipient that is not covered by, or does not have, a comprehensive plan and a planning process. In this case, the Secretary shall require only that the recipient begin the phased development of the plan and process in a manner designed to assure that they will be completed in a reasonable period of time, taking into consideration the nature and scope of the recipient's reasonable planning needs and financial resources.

The new law further provides that the Secretary shall require (1) citizen participation pursuant to regulations of the Secretary; (2) the development and subsequent modifications of an implementation strategy and an action program and, to the extent necessary, a comprehensive plan, and the review of the strategy, program and plan for amendment purposes at least every three years; and (3) procedures, including criteria to be set forth in advance, for evaluating programs and activities, to determine whether they are meeting the goals and objectives set forth in the strategies. (section 401, section 701(f) of the Housing Act of 1954)

The Secretary is also required to encourage the cooperation of all interested States, APO's, municipalities, political subdivisions, public agencies and other parties in the preparation and carrying out of programs developed under section 701. Recipients must provide these parties reasonable opportunity to comment on strategies, plans and programs. (section 401, section 701(h) of the Housing Act of 1954)

Performance Funding

The Secretary may not approve a grant to a recipient for any year after the first year in which a grant is made, unless the Secretary determines that additional funds are required to assist in the development of the strategy, action program and, to the extent necessary, the comprehensive plan or parts thereof, and that substantial progress has been made in the development and implementation of the strategy.

The new law requires the applicant to submit to the Secretary such information as the Secretary may require, incuding the performance report described below. At least every three years, applicants must provide to the Secretary a detailed evaluation of their progress during the preceding three-year period toward the development and implementation of their strategies. (section 401; section 701(g) of the Housing Act of 1954)

Performance Reports

The new law provides that, for each year in which assisted activities are being carried out, each recipient of direct assistance from the Secretary must submit a performance report. The Secretary shall conduct at least annually reviews and audits as may be necessary or appropriate to determine (1) whether a recipient has carried out activities substantially as described in the application, (2) whether the actions and activities conformed to the requirements of section 701 and other applicable laws and (3) whether the recipient has a continuing capacity to carry out these actions and activities in a timely manner. The Secretary is required to adjust, reduce or withdraw grant funds, or take other appropriate action in accordance with these reviews and audits. Additionally, a recipient's financial transactions, as they relate to section 701 funds, may be audited by the General Accounting Office under rules and regulations prescribed by the Comptroller General. GAO

representatives shall have access to all books, accounts, records, reports, files and other papers, things or property belonging to or used by the recipient pertaining to the financial transactions and necessary to facilitate the audit. (section 401, section 701 (1) (2) and (3) of the Housing Act of 1954)

Administration by APO's

States are authorized, subject to the Secretary's approval, to provide for the administration of planning assistance grants by APO's, except that responsibility for adherence to section 701's requirements and other applicable laws remains with the State. (section 401, section 701(i) of the Housing Act of 1954)

Grant Terms and Technical Assistance

Contracts to make grants pursuant to section 701 must contain such terms and conditions as the Secretary may prescribe. Also, a grant may not exceed two-thirds of the estimated cost of the work for which it is made. The Secretary is authorized to provide technical assistance by grant, contract or otherwise directly to eligible grantees, to assist them in carrying out the purposes of section 701. (section 401, section 701(j) of the Housing Act of 1954)

Funding Preference

The new law provides that, in the provision of assistance to APO's, the Secretary (or the State, in the case of assistance provided through the State) shall give preference to, and may provide additional funding for, organizations which provide for voting rights among their members weighted in proportion to the population of the areas represented by their members. (section 401, section 701(k) of the Housing Act of 1954)

Evaluation and Approval of Grant Applications

The new law provides generally that the Secretary must establish criteria for the evaluation and approval of grant applications. (section 401, section 701 (l)(1) of the Housing Act of 1954)

Use of Plans and Strategies by HUD

The Secretary is required to use, to the maximum extent practicable, approved plans and strategies to guide policy and funding decisions with respect to HUD programs and activities affecting the geographical areas covered by the plans. (section 401, section 701(n)(1) of the Housing Act of 1954)

Use of Plans and Strategies by Other Federal Agencies

The Secretary is required to encourage other Federal departments and agencies to use approved plans and strategies, to the maximum extent practicable, to guide policy and funding decisions with respect to their programs and activities affecting the geographical area covered by the plans and strategies. The Secretary is further required to encourage other Federal departments and agencies, consistent with their program authority, to adopt approved plans (or components) as all or part of their planning requirements. (section 401, section 701(n)(2) of the Housing Act of 1954)

Terms of Plans and Strategy Statements

A plan and strategy statement approved by the Secretary shall remain in effect for a maximum of three years following the date of its approval. Any extension beyond three years, or any major modification during a statement's term, must meet all the section 701 requirements and must have the Secretary's approval. Modifications must be submitted to the Secretary prior to incorporation into the plan or strategy. (section 401, section 701(n)(3) of the Housing Act of 1954)

Report to Congress

The Secretary is required to report to the Congress no later than January 15, 1984, and no later than January 15 of every third year thereafter, concerning the progress made in encouraging other Federal departments and agencies to use approved plans and strategy statements, as described above. (section 401, section 701(n)(4) of the Housing Act of 1954)

Interstate Agreements

The consent of Congress is given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in comprehensive planning for the growth and development of interstate, metropolitan or other urban areas, and to establish such agencies, joint or otherwise, as they may deem desirable for making these agreements and compacts effective. (section 401, section 701(o) of the Housing Act of 1954)

Funding Authorization

The new law authorizes the appropriation of not to exceed $40 million for each of fiscal years 1981 and 1982, with amounts appropriated to remain available until expended. (section 401, section 701(p) of the Housing Act of 1954)

Effective Date

The section 701 amendments shall become effective on the effective date of regulations implementing the amendments, but in no event later than May 1, 1981. (section 402)

Rural Housing (Title V)

The new law extends through fiscal year 1981, and provides funding authorizations for, various rural housing authorities administered by the Department of Agriculture's Farmers Home Administration. It also contains a number of program amendments to these authorities.

Program Authorizations

The new law limits the aggregate principal amount of loans which the Secretary of Agriculture may insure and guarantee under Title V of the Housing Act of 1949 in fiscal year 1981 to not to exceed $3,797,600,000, subject to approval in appropriation Acts. Of any amount so approved, not less than $3.12 billion must be made available for loans insured or guaranteed on behalf of borrowers receiving interest reduction credits or deep subsidy assistance under section 521(a)(1), not more than $100 million may be made available on behalf of borrowers under section 521(a)(1) who do not receive interest or rental assistance as above, not more than $25.6 million may be made available for domestic farm labor housing loans insured under section 514 and not more than $5 million may be made available for advances under section 501(e) for prepayment of taxes, insurance and other expenses on behalf of title V borrowers. (section 501 (a)(1)-(4))

The new law also provides the following additional funding authorizations for the Farmers Home Administration rural housing programs for fiscal year 1981:

- not to exceed $49 million for section 504 rehabilitation loans and grants, of which not more than $25 million may be for grants;

- not to exceed $25 million for section 516 financial assistance for domestic farm labor housing;

- not to exceed $2 million for grants and contracts for technical and supervisory assistance under section 525(a) to aid low-income persons to benefit from Federal, State and local housing programs in rural areas, of which not less than $1 million must be used for counseling purchasers and delinquent borrowers; and

- not to exceed $2.5 million for the section 523 Self-Help Housing Land Development Fund. (section 501(a)(5)-(7) and (d)(2))

Program Extensions

The new law amends Title V of the Housing Act of 1949 to extend through September 30, 1981 basic authorities under the Farmers Home Administration's rural housing programs. The authorities affected are:

- section 515(b) – loan insurance for rental or cooperative housing and related facilities for elderly or handicapped persons and families or for other persons and families of moderate income in rural areas.

- section 517(a)(1) – insurance, and the making for sale and insurance, of loans to low- and moderate-income borrowers for farm housing and related buildings.

- section 523 – grants, loans and contracts for mutual and self-help rural housing. (section 501(b), (c) and (d)(1)

Rental and Homeownership Assistance Payments

The Secretary of Agriculture is authorized, as approved in appropriation Acts, to enter into not more than an aggregate of $493 million in rental assistance contracts in fiscal year 1981 under Section 521(a)(2)(A). This amount shall be reduced, however, by any amount approved in appropriation Acts for homeownership assistance payments made pursuant to section 521(a)(1)(C). (section 501(e))

There is also authorized, as approved in appropriation Acts, not to exceed an aggregate of $100 million for homeownership assistance payments under section 521(a)(1)(C). (section 501(f))

Definitions

The new law defines the following terms for purposes of title V:

- "Indian tribe" means any U.S. Indian tribe, band, group and nation, including Alaska Indians, Aleuts and Eskimos, and any Alaskan Native Village, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512 – General Revenue Sharing);

- "rural resident" includes a family or a person who rents a dwelling unit in a rural area; and

- "adequate dwelling" means a decent, safe and sanitary dwelling unit. (section 506)

Assistance to Indians and Alaskan Natives and other Persons Residing on Reservations or in Villages.

Persons who reside on Reservations or in Villages of Indian tribes are added as general recipients of FmHA assistance for the construction, improvement, alteration or repair of dwellings, related facilities and farm buildings, and for the purchase of buildings and adequate sites for the provision of dwellings and related facilities for their own use and buildings adequate for their farming operations. For purposes of applying for assistance, Indian tribes are treated as States and local public agencies.

Specifically, Indian tribes are eligible for the following FmHA assistance:

- section 514 insured domestic farm labor loans;

- section 515 direct or insured rental or cooperative housing loans;

- section 516 domestic farm labor housing assistance;
- section 523 mutual and self-help housing assistance;
- section 524 site loans for low- and moderate-income housing; and
- section 525 technical and supervisory assistance. (section 507)

Applicability of Energy Conservation Standards to Homes Acquired and Sold by the Farmers Home Administration

Properties which the Secretary of Agriculture sells or otherwise disposes of must meet, in addition to other standards as prescribed, cost-effective energy conservation standards established pursuant to the Secretary's general authority to set standards under section 509(a). (section 508)

Conditions on Rent Increases in Section 514, 515 and 517 Projects

The Secretary of Agriculture may not approve rental increases with respect to units in which the tenants are paying rentals in excess of 25 percent of their incomes in any project which is assisted under sections 514, 515, and 517 and receiving interest credits under section 521(a)(1)(B), unless the project owner is receiving, or (within 180 days prior to the effective date of the requested increase) has applied for rental assistance under section 521(a)(2)(A) or Section 8 of the U.S. Housing Act of 1937. (section 509)

Subsequent Loans in Ineligible Areas

The Secretary is authorized to make subsequent loans for necessary repair or rehabilitation of properties which are covered by FmHA loans, but which are located in areas that no longer meet the "rural area" requirements of title V and, therefore, are no longer otherwise eligible for rural housing assistance. (section 510)

Interest Credits

The new law makes mandatory the provision of interest credits in the circumstances specified in section 521(a)(1)(B). Prior law left provision of these credits discretionary with the Secretary of Agriculture. (section 505)

Guaranteed Loans

The law provides that moderate (as well as above-moderate) income persons are eligible for FmHA loan guarantees under section 517. (section 511)

Study

The Secretary of Agriculture is required to study the legislative and administrative changes required (1) to conform FmHA procedures for reporting budget and accounting information with the reporting principles established by the Presidential Commission on Budget Concepts; (2) to reflect fully in the Federal Budget FmHA's budget authority and outlays; (3) to make FmHA debt transaction recording procedures consistent with current OMB policies; and (4) to simplify the FmHA authorities set forth in Title V of the Housing Act of 1949. In carrying out this study, the Secretary shall consult with the appropriate congressional committees, the OMB and the Comptroller General, and shall report to the Congress the results of the study, with recommendations for legislative and administrative changes for each of the items listed above, no later than the date on which the President's Budget for fiscal year 1982 is submitted to the Congress. (section 513)

Repeal of Conditions on the Prepayment of Section 514 and Section 515 Loans

Limitations under prior law on the authority of the Secretary of Agriculture to accept prepayment offers and refinancing requests from owners of section 514 or 515 rural rental housing projects for low- and moderate-income and elderly families financed under contracts entered into before December 21, 1979 are repealed with an amendment. The amendment provides that, if any loan made or insured under these provisions pursuant to a contract entered into before December 21, 1979 is prepaid or refinanced on or after the date of enactment of the Housing and Community Development Act of 1980, and tenants of the housing and related facilities financed with the loan are displaced due to a change in the use of the housing or an increase in rental or other charges caused by the prepayment or refinancing, the Secretary must provide the tenants a priority for relocation in alternative housing assisted under title V.

The Secretary is also required to conduct a study, and to report to the Congress not later than six months after the date of enactment of this law, on any adverse effects that may result from the action repealing these prepayment and refinancing limitations on housing, particularly on housing for elderly and low-income persons. (section 514)

Displacement

The law sets forth a requirement that the programs authorized in Title V of the Housing Act of 1949 shall be carried out, consistent with program goals and objectives, so that the involuntary displacement of families and businesses is avoided. (section 512)

Refinancing for Consumer Cooperatives

The section 515 rental and cooperative housing program is amended by adding a new provision permitting the Secretary of Agriculture to make and insure loans to consumer cooperatives to permit them to finance the transfers of memberships in the cooperatives upon such terms and conditions as low- and moderate-income persons reasonably can afford. The terms may not, however, be more favorable than are authorized under section 521(a), and the total loan to the cooperative under the provision may not exceed the value of the property. (section 502)

Continued Eligibility of Consumer Cooperative Members

Section 515 is amended to permit eligible members and tenants of consumer cooperatives to remain in such housing even where they no longer meet income eligibility requirements established by the Secretary. (section 503)

Surplus Federal Land

Section 414 of the Housing and Urban Development Act of 1969 is amended to provide that the Secretaries of HUD and Agriculture may accept the transfer of Federal surplus real property for sale or lease at fair value for use in the provision of housing to be occupied predominately by families or individuals of low- or moderate-income and for related public, commercial or industrial facilities approved by the appropriate Secretary. Under prior law, this authority was limited to the Secretary of HUD. (section 504)

Condominium and Cooperative Conversion Protection and Abuse Relief (Title VI)

Short Title

Title VI may be cited as the "Condominium and Cooperative Abuse Relief Act of 1980." (section 601)

Findings and Purpose

The Act contains congressional findings that –

(1) there is a shortage of adequate and affordable housing throughout the Nation, especially for low- and moderate-income and elderly and handicapped persons;

(2) the number of conversions of rental housing to condominiums and cooperatives is accelerating, which in some communities may restrict the shelter options of low- and moderate-income and elderly and handicapped persons;

(3) certain long-term leasing arrangements for recreation and other condominium- or cooperative-related facilities which have been used in the formation of cooperative and condominium projects may be unconscionable; in certain situations State governments are unable to provide appropriate relief; as a result of these leases, economic and social hardships may have been imposed upon cooperative and condominium owners, which may threaten the continued use and acceptability of these forms of ownership and interfere with the interstate sale of cooperatives and condominiums; appropriate relief from these abuses requires Federal action; and

(4) there is a Federal involvement with the cooperative and condominium housing markets through the operation of Federal tax, housing and community development laws, through the operation of federally chartered and insured financial institutions and through other Federal activities; and that the creation of many condominiums and cooperatives is undertaken by entities operating on an interstate basis. (section 602(a))

The Act also states the purposes of the title to be to seek to minimize the adverse impacts of condominium and cooperative conversions particularly on the housing opportunities of low- and moderate-income and elderly and handicapped persons, to assure that fair and equitable principles are followed in the establishment of condominium and cooperative opportunities, and to provide appropriate relief where long-term leases of recreation and other cooperative- and condominium-related facilities are determined to be unconscionable. (section 602(b))

Conversion Lending

The Act sets forth the sense of Congress that lending by federally insured lending institutions for conversion projects should be discouraged where there are adverse impacts on the housing opportunities of low- and moderate-income persons, as well as the elderly and handicapped. (section 603)

Definitions

The Act includes the following definitions:

(1) The term "affiliates of a developer" means any person who controls, is controlled by, or is under common control with a developer. A person "controls" a developer if the person (A) is a general partner, officer, director or employer of the developer; (B) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interests of the developer; (C) controls in any manner the election of a majority of the directors of the developer; or (D) has contributed more than 20 percent of the capital of the developer.

A person "is controlled by" a developer if the developer (A) is a general partner, officer, director or employer of the person; (B) directly or indirectly or acting in concert with one or more other persons, or through one or

more subsidiaries, owns, cor. ·ols, holds with power to vote or holds proxies representing more than 20 percent of the voting interests of the person; (C) controls in any manner the election of a majority of the directors; or (D) has contributed more than 20 percent of the capital of the person.

(2) The term "automatic rent increase clause" means a provision in a lease permitting periodic increases in the lease fee which is effective automatically or at the sole option of the lessor, and which provides that the fee will increase at the rate of an economic, commodity or consumer price index or at a percentage rate such that the actual increases in the rental payment over the lease term cannot be established with specificity at the time the lease is entered into.

(3) The term "common elements" means all portions of the cooperative or condominium project, other than the units designated for separate ownership or for exclusive possession or use.

(4) The term "condominium association" means the organization, whose membership consists exclusively of all the unit owners in the condominium project, which is, or will be, responsible for the operation, administration and management of the condominium project.

(5) The term "condominium project" means real estate (A) which has five or more residential condominium units in each residential structure, and the remaining portions of the real estate are designated for common ownership solely by the owners of those units, each owner having an undivided interest in the common elements; and (B) where such units are or have been offered for sale or sold, directly or indirectly, through the use of any means or instruments of transportation or communication of interstate commerce or the mails.

(6) The term "condominium unit" means a portion of the condominium project designated for separate ownership.

(7) The term "conversion project" means a project which has five or more residential units and was used primarily for residential rental purposes immediately prior to being converted to a condominium or cooperative project.

(8) The term "convey or conveyance" means (A) a transfer to a purchaser of legal title in a unit at settlement, other than as security for an obligation; or (B) the acquisition by a purchaser of a leasehold interest for more than five years.

(9) The term "cooperative association" means an organization that owns the record interest in the residential cooperative property or a leasehold of the residential property of a cooperative project and that is responsible for the operation of the project.

(10) The term "cooperative project" means real estate (A) which has five or more residential cooperative units, in each residential structure, subject to separate use and possession by one or more individual unit owners whose interest in the units and in the undivided assets of the cooperative association which are appurtenant to the unit is evidenced by a membership or share interest in a cooperative association and a lease or other evidence of title or possession granted by the cooperative association as the owner of all the property; and (B) an interest in which is or has been offered for sale or lease or sold, or leased directly or indirectly, through use of any means or instruments of transportation or communication in interstate commerce or of the mails.

(11) The term "cooperative property" means the real and personal property subject to cooperative ownership and all other property owned by the cooperative association.

(12) The term "cooperative unit" means a part of the cooperative property which is subject to exclusive use and possession by a cooperative unit owner. A unit may be improvements, land or land and improvements together, as specified in the cooperative documents.

(13) The term "cooperative unit owner" means the person having a membership or share interest in the cooperative association and holding a lease, or other evidence of title or possession, of a unit that is granted by the cooperative association as the owner of the property.

(14) The term "developer" means (A) any person who offers to sell or sells his or her interest in a cooperative or condominium unit not previously conveyed; or (B) any successor of that person who offers to sell or sells his or her interests in the units and who has the authority to exercise special developer control in a project including

the right to: add, convert or withdraw real estate from the project, and maintain sales offices, management offices and rental units; exercise easements through common elements for the purpose of making improvements within the cooperative or condominium; or exercise control of the owners' association.

(15) The term "interstate commerce" means trade, traffic, transportation, communication or exchange among the States, or between any foreign country and a State, or any transaction which affects these.

(16) The term "lease" includes any agreement or arrangement containing a condominium or cooperative unit owner's obligation, individually, collectively or through an association to make payments for a leasehold interest or for other rights to use or possess real estate or personal property (which may include the right to receive services with respect to such real estate or personal property). A lease does not include mortgages or other such agreements for the purchase of real estate.

(17) The term "person" means a natural person, corporation, partnership, association, trust or other entity, or any combination thereof.

(18) The term "purchaser" means any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit, other than (A) a leasehold interest (including renewal options) of less than five years, or (B) as security for an obligation.

(19) The term "real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interests which by custom, usage or law pass when the land is conveyed, though these are not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

(20) The term "residential" means used as a dwelling.

(21) The term "sale," sale of a cooperative unit," or "sale of a condominium unit" means any obligation or arrangement for consideration for conveyance to a purchaser of a cooperative or condominium unit, excluding options or reservations that are not binding on the purchaser.

(22) The term "special developer control" means any right arising under State law, cooperative or condominium instruments, the association's bylaws, charter or articles of association or incorporation, or power of attorney or similar agreement, through which the developer may control or direct the unit owners' association or its executive board. A developer's right to exercise the voting share allocated to any condominium or cooperative unit which he or she owns is not deemed a right of special developer control, if the voting share allocated to that unit is the same as would be allocated to that unit if it were owned by any other unit owner at that time.

(23) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

(24) The term "tenants' organization" means a bona fide organization of tenants who represent a majority of the occupied rental units in a rental housing project. (section 604)

Exemptions

The Act does not apply to:

(1) a cooperative or condominium unit sold or offered for sale by the Federal Government, by any State or local government.

(2) a cooperative or condominium project in which all units are restricted to non-residential purposes or uses; or

(3) any lease or portion thereof –

(A) which establishes any leasehold or other estate or interest in, over or under land on or in which one or more residential condominium or cooperative units are located, the termination of which will terminate the condominium or cooperative project, or reduce the number of units in such project; or

(B) which establishes a leasehold interest in, or other rights to use, possess, or gain access to, a condominium or cooperative unit. (section 605)

Condominium and Cooperative Conversions

The Act sets forth the sense of Congress that tenants in multifamily conversion projects should have adequate notice of the conversion and the first opportunity to purchase units and that it is the responsibility of State and local governments to enact laws to provide such tenant rights. (section 606)

FHA Insurance

The Act directs the Secretary to expedite processing of applications for FHA insurance made in connection with the conversion or purchase of a rental housing project, when the conversion or purchase is being undertaken by a tenants' organization. (section 607)

Optional Termination of Self-Dealing Contracts

The new Act allows unit owners' associations to terminate any contract entered into after the effective date of the Act for the operation, maintenance or management of a condominium or cooperative in a conversion project. This termination right is applicable only to contracts for more than three years which were entered into when the developer controlled the owners' association. The unit owners must exercise this termination right within a two-year period, beginning on the earlier of the date special developer control is terminated or the date on which the developer owns 25 percent or less of the units. Termination under this section requires a vote of owners of not less than two-thirds of the units (other than units owned by the developer or the developer's affiliate). Following the unit owners' vote, termination is effective 90 days after hand delivering or mailing notice to the parties to the contract. (section 608)

Civil Action: Unconscionable Leases

The Act authorizes cooperative and condominium unit owners, through unit owners' associations, to bring an action in Federal court seeking a determination that certain long-term leasing arrangements for recreation and other condominium- and cooperative-related facilities are unconscionable. Such an action could only be maintained for leases which: (1) were entered into when the owners' association was controlled by the developer; (2) had to be accepted as a condition of purchase of a unit; (3) have a term of more than 21 years or, if less than 21 years, with an automatic renewal provision for more than 21 years; (4) contain an automatic rent increase clause; and (5) were entered into prior to June 4, 1975. (section 609(a))

The action must be authorized by the cooperative or condminium unit owners by a vote of not less than two-thirds of the owners (excluding units owned by the developer or the developer's affiliate). The action may be brought by the unit owners' association. Prior to instituting the action, the unit owners must, through a vote of not less than two-thirds of the owners (excluding units owned by the developer or the developer's affiliate) agree to enter into negotiations with the lessor and must seek to eliminate or modify any lease terms that are alleged to be unconscionable. If no agreement is reached within 90 days from the date on which the authorizing vote is taken, the suit may proceed.

The Act also provides that, if the lease has certain additional characteristics, a rebuttable presumption of unconscionability is established. This presumption must be rebutted by a preponderance of the evidence. These characteristics are provisions of the lease which (1) create a lien on the unit which can be foreclosed in the event of default; (2) require owners or the owners' association to assume all obligation for the operation and maintenance of the leased property; (3) provide for an automatic rent increase without a specific maximum lease payment limit; and (4) require an annual rental in excess of 25 percent of the appraised value of the property. For purposes of the last provision, "annual rental" means the amount due during the first twelve months of the lease for all units, regardless of whether the units were occupied or sold during that period, and

"appraised value" means the appraised value placed upon the leased property in the first tax year after the sale of a unit in the condominium or after the sale of a membership or share interest in the cooperative association to a party other than an affiliate of the developer. (section 609(b))

The Act further provides that parties to the suit be offered an opportunity to present evidence at least as to:

(1) the commercial setting of the negotiations;

(2) whether a party has knowingly taken advantage of the inability of the other party reasonably to protect his or her interest;

(3) the effect and purpose of the lease or portion thereof, including its relationship to other contracts between the association, the unit owners and the developer or an affiliate of the developer; and

(4) the disparity between the amount charged under the lease and the value of the real estate subject to the lease, measured by the price at which similar real estate was readily obtainable in similar transactions. (section 609(c))

Additionally, the Act provides that, upon finding a lease unconscionable, the court shall provide such remedial relief as necessary to avoid an unconscionable result, taking into consideration the economic value of the lease. This relief may include, but is not limited to, rescission, reformation, restitution, the award of damages and resonable attorney's fees and court costs. A defendant may recover reasonable attorney's fees if the court determines that the cause of action filed by the plaintiff is frivolous, malicious or lacking in substantial merit. (section 609(d))

Finally, the Act states that it does not authorize the bringing of an action by a cooperative and condominium unit owners' association to obtain a judicial determination that a lease or leases, or portions of these are unconscionable, where the unit owners or the unit owners' association representing them have, after the termination of special developer control, reached an agreement with the holder of the lease or leases which either –

(1) sets forth the terms and conditions under which the lease or leases may be purchased by the unit owners or association; or

(2) reforms any automatic rent increase clause in the lease, unless the agreement was entered into when the leaseholder or his or her affiliate held a majority of the votes in the owners' association. (section 609(e))

Prohibitions

The Act declares that, with respect to self-dealing contracts (section 608) or unconscionable leases (section 609), any provision requiring the unit owner to reimburse the developer for attorney's fees or money judgments on any suit is against public policy and void. (section 610)

State and Local Jurisdiction

The Act provides that it does not limit the authority of State or local governments to enact any law or ordinance with regard to condominium, cooperative or conversion projects, provided that the law or ordinance does not abridge, deny or contravene any standard for consumer protection established by this Act. Nevertheless, except for the unconscionable lease and prohibitions provisions of sections 609 and 610, the provisions of this Act will not apply to any State or locality which, within three years of this Act's enactment, enacts a law or ordinance stating that this Act shall not apply in that State or local government jurisdiction. (section 611)

Additional Remedies

The Act provides the following additional remedies:

(1) Unless otherwise limited (as in section 608 or 609), any person aggrieved by a violation of this Act may sue at law or in equity.

(2) In any action authorized by this section for a violation of section 608 or 610 where actual damages have been suffered, these damages may be awarded or any other relief granted as deemed fair, just and equitable.

(3) Every person who becomes liable to make any payment under this section may recover contributions from any person who, if sued separately, would have been liable to make the same payment.

(4) The amounts recoverable under this section may include interest paid, reasonable attorney's fees, independent engineers' and appraisers' fees and court costs. A defendant may recover reasonable attorney's fees, if the court determines that the cause of action filed by the plaintiff is frivolous, malicious, or lacking in substantial merit. (section 612)

Jurisdiction

The Act provides that the district courts of the United States, the United States courts of any territory and the United States District Court for the District of Columbia shall have jurisdiction and, concurrent with State courts, of actions at law or in equity brought under this title without regard to the amount in controversy. Any such action may be brought in the district where the defendant is found, is an inhabitant or transacts business, or where the sale took place. Process in such cases may be served in other districts of which the defendant is an inhabitant or wherever the defendant may be found. No case arising under this title and brought in a State court of competent jurisdiction may be removed to a U.S. court, unless an officer or employee of the U.S. is, in his or her official capacity, a party. (section 613)

Limitation of Actions

Actions to enforce rights or liabilities created by the Act must be brought within six years after the cause of action occurred, except that actions pursuant to section 609 (unconscionable leases) must be brought within four years after enactment of this title. (section 614)

Contrary Stipulation Void

The Act provides that any condition, stipulation or provision binding any person to waive compliance with any provisions of this title is void. (section 615)

Additional Remedies

Rights and remedies under this Act are in addition to all other rights and remedies that exist under Federal or State law. (section 616)

Separability

The Act provides that if one of its provisions is declared invalid, the remainder shall not be affected. (section 617)

Effective Date

The Act is effective upon enactment, except that the provisions relating to unconscionable leases (section 609) and the prohibition regarding payment of attorney's fees and money judgments (section 610) shall be effective one year after enactment. (section 618)